TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1927

No. 404

THE BALTIMORE & OHIO RAILROAD COMPANY, WILLIAM W. WHEELOCK, AND WILLIAM G. BIERD, RECEIVERS, ETC., ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

FILED JULY 23, 1927

(32,856)

(32,856)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927

No. 404

THE BALTIMORE & OHIO RAILROAD COMPANY, WILLIAM W. WHEELOCK, AND WILLIAM G. BIERD, RECEIVERS, ETC., ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

INDEX

	Original	Print
Record from the district court of the United States, northern Illinois	1	1
Caption (omitted in printing)	2	
Bill of complaint	4	1
Exhibit No. 1—Corrected report of I. C. C. in C., R. I. & P. Ry. Co. vs. B. & O. R. R. Co.	23	15
Exhibit No. 2—Order	37	30
Exhibit No. 3—Complaint	38	30
Exhibit No. 4—Order denying petition for reargument	64	56
Exhibit No. 5—Dissenting opinion, Eastman, J.	65	56

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., SEPTEMBER 26, 1927

	Original	Print
Order setting cause for hearing	68	58
Answer	70	59
Intervention of I. C. C.	77	62
Answer of I. C. C.	79	63
Intervention of C., R. I. & P. et al.	85	65
Answer of interveners	86	67
Order dismissing bill of complaint	92	68
Petition for appeal	94	69
Assignments of error	97	70
Order allowing appeal	101	72
Bond on appeal (omitted in printing)	103	
Stipulation re statement of evidence	110	73
Statement of evidence	112	74
Transcript of evidence before I. C. C.	114	75
Appearances of counsel	114	75
Testimony of Frank G. Jonah	114*a*	76
H. W. Press	122	81
B. H. Stanage	127	86
Colloquy between examiner and counsel	232	173
Testimony of B. H. Stanage	233	173
John W. Nourse	269	200
C. C. P. Rausch	272	202
James E. Hutchison	295	219
H. R. Fertig	299	224
R. C. Trovillion	316	237
H. W. Johnson	321	241
H. W. Press (recalled)	322	242
H. G. Nicholson	328	246
G. A. Hoffelder	329	248
W. H. Malcolm	331	249
Herman Meyer	334	251
Frank G. Jonah (recalled)	335	251
C. B. Sudborough	338	253
W. C. Maxwell	351	265
F. C. Furry	397	297
Fred H. Behring	401	300
L. L. Drescher	423	316
W. C. Maxwell (recalled)	424	317
R. P. Decamp	426	319
Columbus Haile	432	323
F. A. Leland	439	328
Robert N. Nash	454	340
F. A. Adams	483	366
B. H. Stanage (recalled)	493	376
H. W. Press (recalled)	505	387
B. H. Stanage (recalled)	506	388
W. C. Maxwell (recalled)	508	389
Secretary's certificate	511	393
Exhibit No. 1—Plat of St. Louis and East St. Louis (omitted in printing)	512	

	Original	Print
Exhibit No. 2—Map showing freight facilities of St. Louis and East St. Louis (omitted in printing)	513	
Exhibit No. 3—Map of Alton & Southern R. R. (omitted in printing)	514	
Exhibit No. 4—History, organization, etc., of Terminal Railroad Association of St. Louis (omitted in printing)	516	
Exhibit No. 5—Correspondence	572	393
Exhibit No. 6—List of tariffs	670	188
Exhibit No. 7—Freight receipts, etc. (omitted in printing)	682	
Exhibit No. 8—Bills of lading (omitted in printing)	691	
Exhibit No. 9—Letter from Geo. H. Ross to W. R. Biddle, December 13, 1905	735	142
Exhibit No. 10—Explanation of abbreviations	736	193
Exhibit No. 11—Extracts from brief and record in case No. 16,697 (omitted in printing)	739	
Exhibits Nos. 12-15, inclusive—Extracts from letters (omitted in printing)	750	
Exhibit No. 16—List of passenger tariffs	771	497
Exhibit No. 17—Map of Missouri Pacific Railroad and connections (omitted in printing)	772	
Exhibit No. 18—Map (omitted in printing)	773	
Exhibit No. 19—Statement of revenue freight in tons, Missouri Pacific Railroad	774	498
Exhibit No. 20—Statement of freight revenue cars interchanged at St. Louis	775	500
Exhibits Nos. 21 and 22—List of roads	776	500
Exhibit No. 23—List of open and prepay stations	778	502
Exhibit No. 24—List of roads interchanging traffic with Missouri Pacific at St. Louis	779	504
Exhibit No. 25—Connections and interchange of railroads at Kansas City, Mo	780	506
Exhibit No. 26—Cover "freight tariff," Missouri Pacific R. R. Co	782	507
Exhibit No. 27—Connection and interchange of railroads at Omaha, Nebraska, and other points	783	509
Exhibit No. 28—Cover "freight tariff," Missouri Pacific Railroad Corporation in Nebraska (omitted in printing)	789	
Exhibit No. 29—Connection and interchange of railroads at Wichita, Kansas	790	515
Exhibit No. 30—Page from Chicago & Alton time table (omitted in printing)	792	

	Original	Print
Exhibit No. 31—Memorandum of movement of package cars on C., B. & Q. (omitted in printing)	793	
Exhibit No. 32—Title page of pamphlet issued by Illinois Central (omitted in printing)	793*a*	
Exhibit No. 33—Page from folder of Nickel Plate re freight line service (omitted in printing)	795	
Exhibit No. 34—Pennsylvania Railroad System freight pamphlet (omitted in printing)	796	
Exhibit No. 35—Wabash Railroad freight traffic circular (omitted in printing)	798	
Exhibit No. 36—Santa Fe Railroad Company uniform bill of lading (omitted in printing)	804	
Exhibit No. 37—Shipping order (omitted in printing)	805	
Exhibit No. 38—Straight bill of lading issued by Chicago & Eastern Illinois Railroad (omitted in printing)	806	
Exhibit No. 39—C., C., C. & St. Louis bill of lading (omitted in printing)	807	
Exhibit No. 40—Erie Railroad Company freight way bill (omitted in printing)	808	
Exhibit No. 41—G. B. & W. Railway uniform straight bill of lading (omitted in printing)	809	
Exhibit No. 42—Indiana Harbor Belt Railroad Company uniform straight bill of lading (omitted in printing)	810	
Exhibit No. 43—Freight bill, M. & O. Railroad (omitted in printing)	811	
Exhibit No. 44—N. Y. C. bill of lading (omitted in printing)	812	
Exhibit No. 45—Pennsylvania Railroad System uniform straight bill of lading (omitted in printing)	813	
Exhibit No. 46—Western Maryland Railway Company uniform straight bill of lading (omitted in printing)	814	
Exhibit No. 47—Wabash Railway Co. uniform bill of lading (omitted in printing)	815	
Exhibit No. 48—Report showing practices governing interchange of through traffic, etc., at St. Louis, 1924	816	517
Exhibit No. 49—Bills of lading (omitted in printing)	838	
Exhibit No. 50—Final decree, U. S. vs. Terminal Railroad Association of St. Louis	850	524

	Original	Print
Exhibit No. 51—Copies of various agreements between Terminal Railroad Association of St. Louis and proprietary companies (omitted in printing)	861	
Exhibit No. 52—River transfer charges at St. Louis Missouri (omitted in printing)	1007	
Exhibit No. 53—Recapitulation, westbound carload traffic, C., R. I. & P. R. R. (omitted in printing)	1037	
Exhibit No. 54—Map of C., B. & Q. Railroad System (omitted in printing)	1067	
Exhibit No. 55—Statement of westbound carload traffic received from eastern connections, Missouri Pacific R. R. Co. (omitted in printing)	1068	
Exhibit No. 56—River transfer charges at St. Louis, M., K. & T. Railroad Company (omitted in printing)	1072	
Exhibit No. 57—Extracts from report of the engineers' committee	1083	531
Exhibit No. 58—Evidence submitted in coal-rate-case hearing	1085	534
Exhibit No. 59—Report of committee on Mississippi River bridge toll between east side and west side lines on through traffic	1089	536
Exhibit No. 60—Letter from E. B. Boyd to E. Morris, July 20, 1922	1208	613
Exhibit No. 61—Map (omitted in printing)	1209	
Exhibit No. 62—Excerpts from decisions of the Interstate Commerce Commission (omitted in printing)	1210	
Exhibit No. 63—Map (omitted in printing)	1235	
Exhibit No. 64—Southern Ry. System map (omitted in printing)	1236	
Exhibits Nos. 65, 66, 67, 68—Plats (omitted in printing)	1237	
Exhibit No. 69—Coal rates	1241	614
Exhibit No. 70—Illinois Freight Association Tariff Bureau Bulletin	1242	615
Exhibit No. 71—Statement showing handling of merchandise from Chicago, Milwaukee, and vicinity	1271	615
Exhibit No. 72—Historical statement of class rates from eastern points to St. Louis, Missouri, and East St. Louis, Illinois	1272	616
Exhibit No. 73—Statement showing through rates and divisions to points in Kansas from points east of Mississippi River	1290	616

INDEX

	Original	Print
Exhibit No. 74—Statement showing basis for constructing rate from Central Freight Association territory to Iowa cities	1283	616
Exhibit No. 75—Statement showing comparison of present specific rates from St. Louis to representative southwest Missouri points with rates based on Missouri State mileage scale	1286	618
Exhibit No. 76—Statement showing comparison of differentials, etc., east of St. Louis on traffic from Central Freight Association territory to Southwest	1297	616
Exhibit No. 77—Statement showing railway operating revenue, etc., for year 1924	1299	616
Exhibit No. 78—Telegram between F. A. Barber and E. Morris (omitted in printing)	1300	
Exhibit—Data taken from annual reports of Terminal Railroad Association (omitted in printing)	1304	
Exhibit—Bridge tolls on through traffic (omitted in printing)	1313	
Exhibit—Evidence submitted in coal-rate case hearing before I. C. C. (omitted in printing)	1314	
Order approving statement of evidence	1394	616
Order making answer of B. & O. R. R. Co. a part of the record (omitted in printing)	1396	
Answer of B. & O. before I. C. C. (omitted in printing)	1397	
Order extending time	1403	617
Motion for order enlarging time (omitted in printing)	1405	
Orders enlarging time	1407	617
Praecipe for transcript of record	1420	620
Clerk's certificate (omitted in printing)	1422	
Citations and service (omitted in printing)	1423	
Stipulation as to printing record and exhibits	1427	622
Statement of points to be relied upon and designation as to parts of record to be printed	1431	624

[fols. 1-4] [File endorsement omitted]

[fol. 5]

IN UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In Equity

THE BALTIMORE AND OHIO RAILROAD COMPANY; WILLIAM W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company, The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, Illinois Traction, Inc., Illinois Central Railroad Company, Litchfield and Madison Railway Company, Louisville and Nashville Railroad Company, Mobile and Ohio Railroad Company, The New York, Chicago and St. Louis Railroad Company, The Pennsylvania Railroad Company, Southern Railroad Company, Wabash Railway Company, Plaintiffs,

vs.

THE UNITED STATES OF AMERICA, Defendant

BILL OF COMPLAINT—Filed Nov. 12, 1926

To the Honorable the Judges of the District Court of the United States in and for the Eastern Division of the Northern District of Illinois:

I

The corporate names of the plaintiffs herein, their citizenship, and the places of their principal offices, are as follows:

The Baltimore and Ohio Railroad Company, a corporation of Maryland, Baltimore, Maryland;

William W. Wheelock and William G. Bierd, Receivers of the railways and property of the Chicago and Alton [fol. 6] Railroad Company, citizens and residents of the State of Illinois, Chicago, Illinois.

Chicago and Eastern Illinois Railway Company, a corporation of Illinois, Chicago, Illinois;

The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, a corporation of Ohio and Indiana, Cincinnati, Ohio;

Illinois Central Railroad Company, a corporation of Illinois, Chicago, Illinois;

Illinois Traction, Inc., a corporation of Illinois, Monticello, Illinois;

Litchfield and Madison Railway Company, a corporation of Illinois, Edwardsville, Illinois;

Louisville and Nashville Railroad Company, a corporation of Kentucky, Louisville, Kentucky;

Mobile and Ohio Railroad Company, a corporation of Alabama, Mobile, Alabama;

The New York, Chicago and St. Louis Railroad Company, a corporation of New York, Pennsylvania, Ohio, Indiana and Illinois, Cleveland, Ohio;

The Pennsylvania Railroad Company, a corporation of Pennsylvania, Philadelphia, Pennsylvania;

Southern Railway Company, a corporation of Virginia, Richmond, Virginia;

Wabash Railway Company, a corporation of Indiana, St. Louis, Missouri.

Plaintiffs herein are common carriers by railroad subject to the Interstate Commerce Act and bring this their bill of complaint in equity on behalf of themselves and on behalf of such other railroads as have an interest herein and may by proper proceedings become parties hereto.

II

The defendant is The United States of America, and this suit is brought under the Act of Congress, approved October 22, 1913, 38 Statutes at Large, page 219, for the pur- [fol. 7] pose of having enjoined, set aside, annulled and suspended a certain order of the Interstate Commerce Commission entered on July 12, 1926, in Interstate Commerce Commission, Docket No. 16287, entitled The Chicago, Rock Island and Pacific Railway Company, et al. v. The Baltimore and Ohio Railroad Company, et al., a copy of which order as corrected by the said Interstate Commerce Commission, together with the corrected report in said cause referred to in and made a part of the said order, is at-

tached to this bill marked "Exhibit No. 1." and made a part hereof with like force and effect as if set forth in extenso herein. This order by its terms was required to be made effective on or before October 12, 1926, but by an order of the said Interstate Commerce Commission entered in the same cause on August 20, 1926, the effective date of the said order of July 12, 1926, was postponed to December 11, 1926. A copy of the said order of August 20, 1926, is attached to this bill marked "Exhibit No. 2," and made a part hereof with like force and effect as if set forth in extenso herein.

III

The said order of July 12, 1926, was entered in a proceeding instituted by The Chicago, Rock Island and Pacific Railway Company, the Missouri-Kansas-Texas Railroad Company, the Missouri Pacific Railway Company, and the St. Louis-San Francisco Railway Company, against the plaintiffs herein and other common carriers, which proceeding was docketed by the Interstate Commerce Commission under its Docket No. 16697. The said order relates to transportation.

Plaintiffs herein show that The Chicago, Rock Island and Pacific Railway Company is a railroad corporation organized under the laws of the States of Iowa and Illinois and has its principal office at Chicago, Illinois, and is a citizen and resident of the Northern District of the State [fol. 8] of Illinois, Eastern Division; that the Missouri-Kansas-Texas Railroad Company is a railroad corporation organized under the laws of the State of Missouri and has its principal office at St. Louis, Missouri, and is a citizen and resident of the Eastern District of the State of Missouri; that the Missouri Pacific Railroad Company is a railroad corporation organized under the laws of the State of Missouri and has its principal office at St. Louis, Missouri and is a citizen and resident of the Eastern District of the State of Missouri; and that the St. Louis-San Francisco Railway Company is a railroad corporation organized under the laws of the State of Missouri and has its principal office at St. Louis, Missouri, and is a citizen and resident of the Eastern District *in* the State of Missouri.

The said order of the Interstate Commerce Commission herein sought to be enjoined, set aside, annulled and suspended was made upon the petition of the above named railroads, one of which, the said The Chicago, Rock Island and Pacific Railway Company, is a railroad corporation organized under the laws of the States of Iowa and Illinois and has its principal office at Chicago, Illinois, and is a citizen and resident of the Northern District of the State of Illinois, Eastern Division.

IV

Plaintiffs herein further show that the said The Chicago, Rock Island and Pacific Railway Company, the Missouri-Kansas-Texas Railroad Company the Missouri Pacific Railroad Company, and the St. Louis-San Francisco Railway Company, hereinafter called the West Side Lines, on or about February 5, 1925, filed their certain complaint with the Interstate Commerce Commission and numbered on the docket of the said Commission as No. 16697 against the plaintiffs herein and other common carriers, defendants therein, whereby and whereunder the said West Side Lines [fol. 9] averred in substance that there are certain terminal and transfer companies engaged in carrying freight across the Mississippi River between St. Louis, Missouri, and East St. Louis, Illinois, for whose services certain charges are made by such companies; that under the practice in effect at the St. Louis-East St. Louis gateway and also at Alton, Illinois, and West Alton, Missouri, the West Side Lines are compelled to assume the burden of effecting delivery of all eastbound through traffic at points on the east side of the Mississippi River and to assume the burden of accepting and receiving all westbound through traffic at points on the east side of the Mississippi River; that the West Side Lines pay and bear the charges incurred by the bridge and transfer companies for transporting the through traffic in both directions across the Mississippi River; that the said practice is unjust, unreasonable, unduly preferential, unduly discriminatory, unduly prejudicial, unlawful and illegal within the meaning of those terms as used in the Act to Regulate Commerce as between the West Side Lines and the defendants therein, and that under a

proper, just, reasonable, lawful and nonprejudicial and nonpreferential practice the defendants therein should assume the burden of and effect delivery of all through westbound traffic at St. Louis and at West Alton, and should pay and ultimately bear the transfer charges thereon; that under a proper, just, reasonable, lawful, nonprejudicial and non-preferential practice the point of interchange, as to all through westbound traffic, should be on the west side of the Mississippi River.

The said complaint further averred that the defendants therein have terminals on the west bank of the Mississippi River for handling local traffic to or from St. Louis, Missouri, by virtue of the instrumentalities of the various terminal and transfer companies, but that they assume to have no such terminals on the west bank of the river for delivering to or receiving from their connections through [fol. 10] traffic; that the defendants therein have failed and refused to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes.

The prayer of the said complaint was that an order be made commanding the defendants therein to cease and desist from the aforesaid practices and that the defendants therein be required to pay and bear the transfer charges on all westbound through traffic, to effect delivery thereof to the West Side Lines at St. Louis and West Alton, Missouri, to provide reasonable facilities for operating through routes through said St. Louis and West Alton, Missouri, to make reasonable rules and regulations therefor and to pay to the said West Side Lines damages for the alleged unlawful practices as set out in the said complaint. A copy of the said complaint is attached hereto marked "Exhibit No. 3," and made a part hereof with like force and effect as if set forth in extenso herein.

V

Plaintiffs further show that the defendants in the said cause including plaintiffs herein filed answers denying generally the material allegations of the complaint and joining issue and that the said cause being at issue was set down for hearing in the City of St. Louis, Missouri, on September 21, 1925 and was heard at the said time and place before

William A. Disque, Attorney-Examiner of the Interstate Commerce Commission; that thereafter briefs were filed with the Interstate Commerce Commission by the parties to the said cause and the said Commission on March 10, 1926 heard oral argument at the conclusion of which the said cause stood submitted and was taken under advisement.

[fol. 11] VI

Plaintiffs further show that on July 12, 1926 the Interstate Commerce Commission issued its report and order in said cause, a copy of which report and order as corrected by the Interstate Commerce Commission have been heretofore referred to and made a part of this Bill of Complaint as Exhibit No. 1.

VII

Plaintiffs further show that on or about August 14, 1926 they filed with the Interstate Commerce Commission a petition in their behalf for reargument and reconsideration of the said cause and for a postponement of the effective date of the order therein; that on August 20, 1926 the Interstate Commerce Commission entered an order postponing the effective date of its order of July 12, 1926 in said cause to December 11, 1926, a copy of which order of August 20, 1926 has been heretofore referred to and made a part of this Bill of Complaint as Exhibit No. 2.

VIII

Plaintiffs further show that on October 4, 1926 the Interstate Commerce Commission entered an order in said cause denying the said petition of the plaintiffs herein for reargument and reconsideration of the said cause. A copy of the said order of October 4, 1926, is attached hereto marked "Exhibit No. 4," and made a part hereof with like force and effect as if set forth in extenso herein.

[fol. 12] IX

Plaintiffs further show that Honorable Joseph B. Eastman, chairman of the Interstate Commerce Commission, filed a dissenting opinion to the report of the said Inter-

state Commerce Commission of July 12, 1926 in said cause, in which dissenting opinion Honorable Henry C. Hall and Honorable Thomas F. Woodlock, commissioners of said Commission, concurred. A copy of the dissenting opinion of the said Joseph B. Eastman is attached hereto marked "Exhibit No. 5," and made a part hereof with like force and effect as if set forth in extenso herein.

X

Plaintiffs further show that they are all common carriers by railroad subject to the Interstate Commerce Act; that they participate in the transportation of westbound traffic which moves through East St. Louis, Illinois and St. Louis, Missouri to destinations beyond St. Louis, Missouri; that the order of the Interstate Commerce Commission entered in the said cause applies only to westbound freight traffic moving through East St. Louis, Illinois and St. Louis, Missouri, the rates on which traffic are made on the combination basis, that is, the through rates applicable to such traffic are made by adding or combining the rates of the plaintiffs herein and the rates of the said West Side Lines; that the rates of the plaintiffs herein lawfully applicable to such traffic apply only to East St. Louis, Illinois; that the rates of the said West Side Lines lawfully applicable to such traffic apply from East St. Louis, Illinois; that the rates of the plaintiffs herein lawfully applicable to such traffic which apply only up to East St. Louis, Illinois, do not cover and have never covered the services rendered by such transfer or terminal companies as may move such [fol. 13] traffic from East St. Louis, Illinois to St. Louis, Missouri; that the rates of the said West Side Lines lawfully applicable to such traffic cover and have since 1877 covered the services rendered by such transfer or terminal companies as may move the traffic from East St. Louis, Illinois to St. Louis, Missouri.

XI

Plaintiffs further show that prior to 1877 the through rates on such westbound traffic were made up of the charges of the plaintiffs herein or their predecessors up to East St. Louis, Illinois, plus the charges of the terminal or trans-

fer companies for the services th rendered in transporting such traffic from East St. Louis, Illinois to St. Louis, Missouri, plus the charges of the west Side Lines or their predecessors beyond; that in 1877 the Chicago and Alton Railroad Company completed its line of railroad from Kansas City, Missouri to East St. Louis, Illinois, by way of Louisiana, Missouri, and thence down the east bank of the Mississippi River; that the Chicago and Alton Railroad Company having its own line into East St. Louis, Illinois, interchanged at East St. Louis, Illinois, at that time and has interchanged ever since, traffic with the plaintiffs herein; that through westbound traffic received at East St. Louis, Illinois, by the Chicago and Alton Railroad Company from the plaintiffs herein, moving over the line of the said Chicago and Alton Railroad Company from East St. Louis, Illinois, was not transported by such terminal or transfer companies from East St. Louis, Illinois to St. Louis, Missouri, the effect of which was to make the through rates applicable to such through westbound traffic the rates of the plaintiffs herein or their predecessors up to East St. Louis, Illinois, plus the rates of the Chicago and Alton Railroad Company from East St. Louis, Illinois; [fol. 14] that is to say, the through rates applicable to such through westbound traffic when moving from East St. Louis, Illinois, over the rails of the Chicago and Alton Railroad Company, were less than the through rates that would have been applicable to such traffic had it been transported from East St. Louis, Illinois to St. Louis, Missouri, by a terminal or transfer company and at St. Louis, Missouri delivered to a west side line for transportation beyond, by the amount of the rges of such terminal or transfer company.

Plaintiffs further show that the said West Side Lines, to meet this competitive situation resulting from the entrance of the Chicago and Alton Railroad Company into East St. Louis, Illinois, published and applied in 1877 and have ever since published and applied both to and from East St. Louis, Illinois, the rates that they published and applied to and from St. Louis, Missouri, and have ever since 1877 paid out of the rates which they thus voluntarily published and applied to and from East St. Louis, Illinois, the charges

of the transfer or terminal companies for the services such companies rendered in transporting the freight between East St. Louis, Illinois and St. Louis, Missouri. The rates of the said West Side Lines applying on such through westbound traffic now cover and ever since 1877 have covered the transportation of such westbound traffic from East St. Louis, Illinois, including such transportation services as may be necessary to transport such traffic from East St. Louis, Illinois to St. Louis, Missouri, and were made and established upon the theory and understanding that this transfer charge should be so borne by the said West Side Lines.

Plaintiffs further show that the fact that the said West Side Lines have since 1877 voluntarily published and applied from and to East St. Louis, Illinois, the rates that they have published and applied from and to St. Louis, Missouri, [fol. 15] and have undertaken since 1877 to provide and pay for such transportation services as might be required under the rates which they have voluntarily published and applied from East St. Louis, Illinois, on through westbound traffic, is not a "practice" within the meaning of that word as used in the Interstate Commerce Act, but if it were any "practice" at all it would be a "practice" not of the plaintiffs herein but of the said West Side Lines and a "practice" voluntarily established and voluntarily maintained by said West Side Lines since 1877.

XII

Plaintiffs further show that the Interstate Commerce Commission in entering the order it did in said cause acted on the assumption that the facts surrounding the payment by the West Side Lines out of the rates which they have voluntarily published and applied on west bound traffic from East St. Louis, Illinois since 1877 of the charges of the terminal or transfer companies for the services rendered in transporting such traffic from East St. Louis, Illinois to St. Louis, Missouri, constitute a "practice" within the meaning of that word as it appears in the Interstate Commerce Act and a "practice" of the plaintiffs herein. If it be not a "practice" within the meaning of that word as used in the Interstate Commerce Act, then the

order of the Interstate Commerce Commission in said cause is null and void for the Interstate Commerce Commission in its report assumed to act only by virtue of those provisions of the Interstate Commerce Act which give it certain jurisdiction with respect to "practices" within the meaning of that word as used in Paragraphs (6) and (11) of Section 1 and Paragraph (1) of Section 15 of the Interstate Commerce Act. The order purports to change a [fol. 16] "practice" only and was made in a proceeding in which the plaintiff herein invoked only such jurisdiction as the Interstate Commerce Commission may have over "practices" within the meaning of that word as it appears in the Interstate Commerce Act.

Plaintiffs further show that the Interstate Commerce Commission in holding that the facts hereinbefore referred to constitute a "practice" within the meaning of that word as used in the Interstate Commerce Act, has entirely misconceived, misconstrued and misinterpreted the meaning of the word "practice" as used in the Interstate Commerce Act and that the order of the Interstate Commerce Commission in the said cause, predicated as it is upon such a construction by the Interstate Commerce Commission of the word "practice", is based upon a mistake of law, is null and void and beyond the power conferred upon the Interstate Commerce Commission by the Interstate Commerce Act.

XIII

Plaintiffs further show that the order of the Interstate Commerce Commission in said cause does not require any change in the manner in which the said through westbound traffic is now handled and transported through and from East St. Louis, Illinois, to St. Louis, Missouri; that it affects not in the slightest degree the method in which the actual physical exchange of traffic is now made between the plaintiffs herein and the said West Side Lines; that if the said order is permitted to take effect on December 11, 1926 the said through westbound traffic will be handled and transported through and from East St. Louis, Illinois to St. Louis, Missouri in exactly the same manner as it is now handled and transported; that the said order goes solely to the apportionment as between the plaintiffs herein and

the said West Side Lines of the revenue on the said through [fol. 17] westbound traffic; that the Interstate Commerce Commission itself said in its report in said cause that:

"In deciding what would be a reasonable practice, primary consideration should be given to what is a fair method of apportioning the revenue regardless of the competition of the Alton;"

that the sole and only effect of the said order is to reduce the plaintiffs' shares or divisions of the through combination rates which are not joint rates lawfully applicable to such traffic by the amount of the charges of the terminal or transfer companies for services they render in transporting such through westbound traffic from East St. Louis, Illinois, to St. Louis, Missouri, and to increase the shares or divisions of the West Side Lines by the amount of such charges.

Plaintiffs further show that the order of the Interstate Commerce Commission in said cause purports to require a change in the "practice" within the meaning of that word as used in the Interstate Commerce Act but that the order really deals solely with the shares or the divisions of rates and that the sole and only effect of the order is to reduce the shares or divisions of the rates of the plaintiffs herein lawfully applicable to through westbound traffic and to increase the shares or the divisions of the rates of the West Side Lines lawfully applicable to such traffic.

Plaintiffs further show that the complaint in said proceeding did not attack or deal with the reasonableness of such shares or divisions; that there has been no hearing with respect to the reasonableness thereof and that no evidence was introduced tending to show that they were unreasonable; that there has been no finding by the Interstate Commerce Commission in that respect and that therefore the order of the Interstate Commerce Commission is beyond the jurisdiction conferred upon said Commission by the Interstate Commerce Act and null and void.

[fol. 18]

XIV

Plaintiffs further show that in those cases where there are joint through rates in effect applying on through westbound traffic moving through East St. Louis-St. Louis,

divisions have been agreed upon between the plaintiffs herein and the said West Side Lines and that in each and every case the divisions make and break on East St. Louis, Illinois; that is to say, that the divisions of the plaintiffs herein out of the joint through rates applying on such traffic extend to East St. Louis, Illinois, and that the divisions of the said West Side Lines applying on such traffic extend from East St. Louis, Illinois; that East St. Louis, Illinois, has been the rate-making, the rate dividing and the rate-breaking point with respect to the establishment of rates on both eastbound and westbound traffic since 1877; that the Interstate Commerce Commission in its report in the said cause found that it was not convinced that the reception for a number of years by the said West Side Lines of the divisions of such joint through rates in which the transfer charge was included, did not constitute an acquiescence by the said West Side Lines in such divisions which was tantamount to an agreement on their part to pay the transfer charge on such traffic and that as to traffic moving under joint through rates the said Interstate Commerce Commission was not prepared at this time to make a definite finding upon the issues and the record before it.

[fol. 19] XV

Plaintiffs further show that even if it be conceded that the payment by the West Side Lines of the charges which the terminal or transfer companies make for the services they render in transporting through westbound freight from East St. Louis, Illinois, to St. Louis, Missouri, out of the rates of the said West Side Lines which those lines voluntarily established and applied from East St. Louis, Illinois, is a "practice" within the meaning of that word as used in the Interstate Commerce Act, there was no evidence whatever in said cause before the Interstate Commerce Commission which would enable that Commission to determine whether the rates or the divisions of the plaintiffs herein applying up to East St. Louis, Illinois on through westbound traffic should be reduced by the amount of the charges of the terminal or transfer companies for the services they render in transporting freight from East St. Louis, Illinois to St. Louis, Missouri, and the rates or divisions of the said West Side Lines increased by such

amounts or would support or tend to support the finding of the Commission that such alleged "practice" was in any respect unjust and unreasonable.

XVI

Plaintiffs aver that the said order of the Interstate Commerce Commission is unlawful and void upon the following grounds:

(1) That which is declared by the Interstate Commerce Commission in its report and order to constitute a "practice" is not a "practice" within the meaning of that word as used in the Interstate Commerce Act.

(2) The Interstate Commerce Commission has no power under the sections of the Interstate Commerce Act referred [fol. 20] to in its report or any other sections of said Act, to make the said order. The order of the Interstate Commerce Commission exceeds the statutory power conferred upon the Interstate Commerce Commission by the Interstate Commerce Act.

(3) If the facts set out in the report of the Interstate Commerce Commission constitute a "practice" within the meaning of that word as used in the Interstate Commerce Act there was no evidence before the Interstate Commerce Commission in said cause which would enable the Commission to determine whether such "practice" was in any respect unreasonable or unjust, or would support or tend to support the finding of the Interstate Commerce Commission that such "practice" was unjust and unreasonable.

(4) The order of the Interstate Commerce Commission is without any evidence to support it.

(5) The order of the Interstate Commerce Commission is arbitrary.

(6) The order of the Interstate Commerce Commission, based as — is upon a misconception of the Interstate Commerce Act and an erroneous construction of that Act deprives the plaintiffs herein of their property without due process of law and is in contravention of the constitution of the United States and particularly the Fifth Amendment thereto.

XVII

The officers of the defendant, unless restrained by this Honorable Court, will institute innumerable suits and prosecutions against the plaintiffs, their agents and servants for failure to comply with said opinion and order, and for alleged violations thereof, and will subject the plaintiffs to innumerable actions to recover fines and penalties, and their employees to innumerable arrests, suits, fines and imprisonments, and plaintiffs will be wrongfully deprived of large sums of moneys and revenues which will be irretrievably lost to plaintiffs to the great and irreparable damage and injury to them and each of them.

[fol. 21] Wherefore plaintiffs and each of them pray:

(1) That this Court adjudge, order and decree that the corrected report and order of the Interstate Commerce Commission of July 12, 1926 in said cause are beyond the authority of the Commission and are without warrant in law and null and void and that said corrected report and order be set aside and annulled.

(2) That this Court grant unto the plaintiffs herein a writ of subpœna directed to defendant The United States of America commanding it on a certain day therein to be specified to be and appear before this Court and then and there full, true and complete answer make to all and singular the premises and to perform and abide by such order and decree herein as this Court shall deem meet and agreeable to equity and good conscience.

(3) That this Court direct that due and proper notice of this Bill be served forthwith on the defendant herein as provided in the said Act of October 22, 1913.

(4) That upon the filing of this Bill the Judge of this Court call to his assistance two other judges, one of whom shall be a circuit judge, and that upon five (5) days' notice of the time and place of hearing having been given to the Attorney-General of the United States and to the Interstate Commerce Commission, plaintiffs herein be granted a temporary injunction restraining the Interstate Commerce Commission from enforcing the said order.

(5) That this court upon final hearing of this suit enter a decree herein enjoining, setting aside, annulling and sus-

pending the said order of the Interstate Commerce Commission and permanently enjoining the enforcement of the said order.

(6) That the plaintiffs herein and each of them may have such other and further relief in the premises as to equity [fol. 22] may appertain and as may be deemed by this court fit and proper.

D. P. Connell, Homer T. Dick, W. A. Northcutt, Guernsey Orcutt, Charles J. Rixey, Louis H. Strasser, W. J. Stevenson, Elmer A. Smith, Frank H. Towner, Morison R. Waite, Solicitors for Plaintiffs.

Duly sworn to by T. C. Powell. Jurat omitted in printing.

[fol. 23] Exhibit No. 1 to Bill of Complaint

Corrected Report

Interstate Commerce Commission

No. 16697

Chicago, Rock Island & Pacific Railway Company et al.

v.

Baltimore & Ohio Railroad Company et al.

Submitted March 10, 1926. Decided July 12, 1926

1. Practice which requires the west-side lines to bear the expense of transferring across the river from East St. Louis, Ill., to St. Louis, Mo., westbound freight moving under combination rates the same on East St. Louis as on St. Louis found to be unreasonable. Reasonable practice prescribed. Reparation denied.

2. Careful study of divisions of joint rates on westbound traffic through East St. Louis and St. Louis commended to interested carriers with view to readjustment thereof in conformity with just and reasonable practice in respect of interchange switching herein approved for general application.

Joseph M. Bryson, W. F. Dickinson, Edward J. White, E. T. Miller, C. S. Burg, Wallace T. Hughes, H. H. Larimore, and M. G. Roberts for complainants

D. P. Connell, Homer T. Dick, Herbert S. Harr, James A. Knowlton, William A. Northcutt, Guernsey Orcutt, Louis H. Strasser, Elmer A. Smith, William J. Stevenson, Frank H. Towner, and H. L. Walker for defendants.

Kenneth F. Burgess and Walter McFarland for Chicago, Burlington & Quincy Railroad Company, defendant and cross-complainant.

[fol. 24] Report of the Commission

CAMPBELL, Commissioner:

Exceptions to the proposed report of the examiner were filed by complainants and defendants, and the case was orally argued. Our conclusions differ from those of the examiner.

The ultimate question here is "whether the east-side lines or the west-side lines should bear the expense incident to the transfer across the Mississippi River from East St. Louis, Ill., to St. Louis, Mo., of practically all carload and less-than-carload through freight originating east of the St. Louis-East St. Louis district and destined west thereof."

The complainants are four of the important west-side carriers serving St. Louis, the St. Louis-San Francisco, Missouri Pacific, Missouri-Kansas-Texas, and Chicago, Rock Island & Pacific.

The principal defendants are the east-side carriers serving East St. Louis, 13 in number, although most of the carriers in the eastern and southern groups are also named as defendants. Defendants Chicago, Burlington & Quincy and Wabash, with lines on both sides of the river, have made themselves cross-complainants with respect to trans-Mississippi River traffic moving over their lines west of the river and interchanged with each other or with other defendants through the St. Louis-East St. Louis gateway. To the extent that they are cross-complainants they seek whatever relief is accorded complainants.

None of the east-side lines serving East St. Louis has its own rails across the river to St. Louis and none of the west-side lines serving St. Louis has its own rails directly across the river to East St. Louis. The traffic is transferred from

one side of the river to the other by the Terminal Railroad Association of St. Louis and its subsidiaries, all of which will be hereinafter referred to collectively as the Association.

For years past the west-side lines have borne the Association's transfer charges on practically all eastbound and westbound through traffic. They are willing to continue the present practice with respect to all eastbound traffic, but contend that the east-side lines should bear the charges on all the westbound traffic under consideration. Based on a test period of 28 months from February 5, 1923, to May 31, 1925, on westbound traffic and of 17 months from Janu- [fol. 25] ary 1, 1924 to May 31, 1925, on eastbound traffic, the carload movement between the four complainants and the east-side lines at St. Louis and East St. Louis was divided, on the average per month, 29 per cent westbound and 71 per cent eastbound. On that basis the transfer charges of the Association on this traffic during twelve months embraced within both of those periods would have divided $1,746,046.55 on eastbound traffic and $713,161.69 on westbound traffic.

In substance, the allegations of the complaint are that the east-side lines' practice of requiring the west-side lines to assume the burden and expense of delivering through westbound traffic to them at St. Louis, while at the same time being relieved by the west-side lines of the similar burden and expense on eastbound traffic, is unjust, unreasonable, unjustly discriminatory, unduly preferential and prejudicial, unlawful, and illegal. There is a further allegation that the east-side line refuse to provide reasonable facilities for the operation of through routes and to make reasonable rules and regulations with respect to the operation of such routes, but no change in the present method of handling the traffic is sought. This allegation is included only to provide a basis for a certain contention, hereinafter dealt with, which bears upon the propriety of the practice mentioned. All that the west-side lines seek in this case is to be relieved of paying the transfer expense on westbound traffic. In the final analysis their prayer is that we condemn the present practice, require the observance of a proper practice, and award reparation for the two-year period prior to February 5, 1925, the date on which the complaint was filed.

Defendants take the position that the word "practice" as used in the act relates only to matters between shippers and carriers and not to questions affecting the handling of traffic between carriers. We do not agree with this contention. The word "practice" as used in paragraphs (6) and (11) of section 1 and paragraph (1) of section 15 of the act seems to us clearly to comprehend within its meaning the subject matter here presented. Paragraph (6) of section 1 makes it the duty of all common carriers subject to our jurisdiction to establish, observe, and enforce just and reasonable practices affecting all matters relating to or connected with the receiving, handling, transporting, and delivery of property subject to the provisions of the act, and every unjust and unreasonable practice is prohibited and declared to be unlawful. Paragraph (11) of section 1 makes it the duty [fol. 26] of every carrier by railroad subject to the act to establish, observe, and enforce just and reasonable practices with respect to car service, and every unjust and unreasonable practice with respect to car service is prohibited and declared to be unlawful. The term "car service" is defined in paragraph (10) of the same section as including the "use, control, supply, movement, distribution, exchange, interchange, and return of * * * cars * * * used in the transportation of property" Paragraph (1) of section 15 confers upon us the power to determine whether the foregoing provisions of the law have been or are being violated, and to prescribe what practice is or will be just, fair, and reasonable.

Much of the traffic through the St. Louis-East St. Louis gateway moves on joint rates. As to this traffic the carriers divisional arrangements provide that the joint rates, eastbound and westbound, shall break on East St. Louis; that its, that certain proportions shall accrue up to that point and certain proportions beyond. Generally, the divisional arrangements make no specific provision regarding the payment or disposition of the transfer expense. However, as the joint rates break on East St. Louis, and as the transfer takes place west of that point the east-sides lines have always left the transfer expense in connection with both eastbound and westbound through traffic moving on joint rates to be borne by the west-side lines. Apparently, in only one instance, affecting a relatively small volume of traffic, do the divisional arrangements make any specific

provision respecting the transfer. In this instance provision is made for deducting before pro-rating, an amount in excess of the transfer expense and adding it to the proportion accruing to the west-side lines. The deduction, of course, has the effect of apportioning the expense between the east-side and the west-side lines. The practice of breaking the joint rates on East St. Louis rather than on St. Louis is apparently due largely to the fact that in 1877 the Chicago & Alton, hereinafter called the Alton, extended a line from the west across the Mississippi River at Louisiana, Mo., and thence south through Alton, Ill., to East St. Louis. Having its own line into East St. Louis, it there interchanges its traffic with the east-side lines. To meet this situation the west-side lines, other than the Alton, absorb the transfer charge between St. Louis and East St. Louis.

The balance of the traffic under consideration moves on combinations of locals or locals and proportionals to and [fol. 27] from East St. Louis. Generally, the local rates of both sets of carrier to and from East St. Louis are the same as those to and from St. Louis. This makes the combination rates based on St. Louis the same as those based on East St. Louis. On traffic in both directions, where the combination is the same on St. Louis as on East St. Louis, the east-sides line apply their St. Louis-East St. Louis rates only to or from East St. Louis, leaving it to the west-side lines to protect the combination rates by applying the St. Louis-East St. Louis rates to or from East St. Louis. This, of course, compels the westside lines to pay the cost of the transfer, and leaves the full St. Louis-East St. Louis rates for the east-side lines. The entire practice above outline is in accordance with the tariffs of the east-side lines, which contain a provision to the effect that where no joint rates are provided and the combinations are the same on St. Louis as on East St. Louis, through rates will be made on the East St. Louis combinations. This provision is intended to mean that the east-side lines' local rates to and from St. Louis may not legally be used as proportional or basing rates on traffic coming from or destined to points beyond. It has no effect on the amount of the through rates, nor does it create joint rates, but it is a direction to agents and accounting forces to use the east-side lines' factors in the combination rates only to or from

East St. Louis. The practice referred to had its origin in the building of the Alton into East St. Louis. Traffic over that line between St. Louis and points west moved through East St. Louis and accordingly it became necessary, as a practical matter, for the Alton to apply the same rates between East St. Louis and the west as applied between St. Louis and the west. The other west-side lines adopted the Alton's rates, and in competition with that road, which, as previously stated interchanges its traffic with the east-side lines at East St. Louis, they allowed the east-side lines their full locals to or from East St. Louis by absorbing the transfer charge.

Traffic from and to points within about 100 miles of the St. Louis-East St. Louis district, moving at rates which are not the same based on East St. Louis as on St. Louis, is the only westbound traffic not embraced in the case. With respect to this traffic there is no question as to who must bear the transfer expense, as it is included in only one of the rate factors.

In general support of their complaint the west-side lines rely largely on the fact that it is the common practice of carriers to reciprocally bear the burden or expense of trans- [fol. 28] ferring through traffic from one line to another. As a rule, the carrier which performs the inbound haul, the delivering carrier, switches or trucks the freight to its connection, or pays the expense of that service if performed by a third party. One of the few exceptions to this rule is found in other than trans-river traffic interchanged in the St. Louis-East St. Louis district, where the receiving line bears the charge of any intermediate switching carrier. Among the few instances throughout the country in which reciprocity does not prevail is the situation here presented.

Before proceeding further it is desirable to state briefly the nature, status and function of the Association. It is a corporation, the stock of which is owned in equal proportions by 15 of the principal east-side and west-side lines serving the St. Louis-East St. Louis district. The east-side lines hold a majority of the shares. The Association's rails cross the river and it has terminal facilities, including depots and team tracks, in both St. Louis and East St. Louis, where it receives and delivers freight. It holds itself out to perform service for all carriers. Though it is a common carrier, it may not legally operate in all re-

spects as a railroad transportation company, having been perpetually enjoined several years ago from operating otherwise than as a terminal and interchange facility for railroads. See United States v. St. Louis Terminal, 224 U. S. 383, and 236 U. S. 194. The contract between the carriers, by which they may, under the Court's decree, continue the Association and the operation of its facilities, contemplates that all carriers shall have equitable treatment in the matter of service, rights, accommodations, benefits, burdens, expenses, charges, etc. Though they do not ordinarily exercise them, the proprietary companies have trackage rights over the Association's line between St. Louis and East St. Louis. Under this contract the properties of the Association represent, in legal and practical effect, the extension of the east-side lines into St. Louis and of the west-side lines into East St. Louis.

In addition to the facilities that the Association affords them, several of the east-side lines own or lease other facilities in St. Louis, such as depots and team tracks, where they receive and deliver in their own names traffic moving between St. Louis and points on their lines. The east-side lines advertise through service to and from St. Louis and in their tariffs show St. Louis as a point on their lines. In apparently all respects as to both freight and passenger [fol. 29] traffic the east-side lines individually recognize St. Louis as a station on their lines.

The west-side lines contend that by bearing the transfer expense to East St. Louis on nearly all eastbound through traffic they are, through the Association, carrying the traffic to the ends of their lines and delivering it to the east-side lines at East St. Louis, and that the east-side lines by refusing reciprocally to bear the transfer expense to St. Louis on all westbound through traffic are refusing to carry the traffic to the ends of their lines for delivery to the west-side lines, and are thus refusing to provide properly for the operation and maintenance of through routes and joint rates.

The west-side lines also contend that in view of the foregoing facts St. Louis is the lawful point of delivery to their lines for through traffic, and that the payment of the transfer charges of the Association is just as much a part of that delivery as would be the expense of that delivery if the east-

side lines had their own rails to St. Louis. They regard the Association as the agent of the east-side lines and say that the agent should receive its compensation from its principals. They contend that the existence of the agency relation is evidenced by the fact that the east-side lines relieve the Association of rental charges on equipment by allowing the Association's switching reclaims, this being done under the generally recognized per-diem rules of the American Railway Association, which provides that the carrier performing the inbound haul shall pay the car rental charges. As further indicating that the Association is the agent of the east-side lines, the west-side lines point out that it is the general custom, as before stated, for the line performing the inbound haul to make delivery to its connection and to do so without making a charge therefor against the receiving line. The east-side lines state that the west-side lines hold themselves out to accept the traffic at East St. Louis, that for years it has been delivered to them at that point, and that the Association is clearly the agent of the west-side lines. They point out that at Ohio River crossings on traffic moving between points north and points south of the Ohio River the combination rates are the same based on the north bank points as on the south bank points, and the southern lines receive and deliver the traffic on the north bank, thus relieving the central territory lines of all expense connected with the transfer of the traffic across the river. Nevertheless, the fact remains that the general custom among rail carriers throughout the country is as stated by complainants.

[fol. 30] The east side lines, in interchanging traffic between themselves in East St. Louis, do so on a reciprocal basis, the receiving line paying the transfer charge of any intermediate line. The west side lines contend that so long as the trans-river traffic is not interchanged on a reciprocal basis this results in unjust discrimination against and in undue prejudice to them. We see here merely a difference in practice in which the west side lines have no real interest.

The west side lines say that through their payment of the transfer charges on nearly all traffic in both directions they are contributing in major part to the Association's expenses and that, therefore, its expenses are not equitably apportioned, although the contract covering the operation and

maintenance of the Association contemplates that they should be. We are not asked, of course, to specifically enforce the terms of the contract, but the matter has some bearing upon the question of the reasonableness of the practice complained of.

The west side lines say that when the divisions of joint rates were fixed nothing to compensate them for the payment of the transfer charge was added to their proportions. It has been customary to divide the joint rates by allowing certain fixed proportions east and west of East St. Louis, and as the transfer service takes place west of East St. Louis it has always been understood that the west side lines would bear it. The west side lines are apparently of the view that if it had not been for the competition of the Alton their joint rates would break on St. Louis and that they would receive the same proportions as they now receive west of East St. Louis out of which the transfer charge has to be paid; in other words, that although the existing proportions may have been agreed to by complainants they were agreed to as a matter of necessity. They are, however, the same as those accepted by, and apparently agreeable to, the Alton, which unquestionably cover all service west of East St. Louis. Five of the eight west side lines which serve St. Louis also serve East St. Louis and three of them, when they receive traffic at East St. Louis, may, as to many destinations, entirely avoid handling it through St. Louis.

In presenting data to us in previous cases relating to the adequacy of their revenues, the west side lines treated the amounts paid by them to the Association as operating expenses. The east side lines urge, therefore, that the gen- [fol. 31] eral increases granted the west side lines in the past must be presumed to have fully compensated them for the transfer expenses. With this contention we cannot agree.

The east side lines regard this case solely as one relating to the division of joint rates and contend that the relief sought in the form of a change in practice is not the proper remedy for the complainants' alleged grievance. The principal east side lines make this point in their answers to the complaint. The west side lines contend that the east side lines by this averment have joined issue on the propriety of the existing divisions and are estopped from saying that

divisions are not in issue. It is sufficient to say that the west side lines stated early in the hearing that they desired to submit the case on the issues presented by them, and the propriety of the divisions was not made the subject of inquiry and investigation.

The question presented is whether it is a reasonable practice for the east side lines to deliver the traffic to the west side lines in such a way as to compel the west side lines to pay the transfer charge from East St. Louis to St. Louis. As explained, the combination rates to and from St. Louis and East St. Louis overlap. The placing of those two points in one group with respect to rates to and from points east was the result of pressure from St. Louis interests. In establishing this parity, in 1908, the east side lines reduced the rates to and from St. Louis and increased those to and from East St. Louis, but the increases were far from sufficient to compensate for the reductions. Later, however, in establishing the rates authorized in C. F. A. Class Scale Case, 45 I. C. C. 254, the distances between central territory points and St. Louis were used to determine the rates to East St. Louis. As previously explained, the grouping of these two points with respect to traffic to and from points west and the west side lines' practice of bearing the transfer expense was brought about in 1877 by the construction of the Alton into East St. Louis.

The west side lines emphasize the fact that when the rates of the east side lines to St. Louis and East St. Louis were put on a common basis the rates formerly existing to East St. Louis were not extended to St. Louis, but were increased to compensate in part for the reduction to St. Louis and reflect in some measure the transfer expense. The east side lines reply that their own readjustment represented a con- [fol. 32] cession to the public, made under the stress of commercial pressure. They say that when the complainant west side lines established their St. Louis-East St. Louis rate parity they did so in pursuance of a self-serving policy, to draw traffic away from the Alton, and are here seeking to have the east side lines saddled with the cost.

The west side lines admit that they are still compelled by the competition of the Alton to maintain the rate parity, but we have no assurance that throughout all the years since 1877 no other circumstance, except perhaps one like that

which caused the east side lines to establish a rate parity, would have brought about an adjustment resulting in the same overlap as now exists. Regardless of the original cause, the fact is that St. Louis and East St. Louis, as to traffic moving to and from these points, are now in one rate group. In deciding upon what would be a reasonable practice, primary consideration should be given to what is a fair method of apportioning the revenue regardless of the competition of the Alton. If that competition is forceful now, it will continue so, regardless of whether or not the relief sought is granted. The east side lines are entitled to such advantageous effects as it may hereafter produce, but its history does not control in determining a reasonable practice.

The history of both the combination rates and the divisions of the joint rates applicable to this traffic indicates that the transfer charge of the Association was given little or no consideration in the establishment of any of these rates or divisions. The fact is that, finding the opportunity there, defendants took advantage of it to require complainants to continue to pay the transfer charge, not only on eastbound traffic, but also on westbound traffic. As pointed out, St. Louis is shown as a point on defendant east side lines. All of the traffic with which this complaint is immediately concerned moves through St. Louis. No carrier participating in a through route, except by special agreement with its connection or connections, can be charged with responsibility for transporting any shipment over such through route until that shipment has been offered to it at a recognized interchange point on its lines. Until it has been so offered the responsibility rests with the connecting line. In this instance the connecting lines are the east side carriers whose lines, by virtue of the fact that St. Louis is shown as a point on their lines, extend to the respective points of interchange with complainant west side [fol. 33] lines in St. Louis, and the responsibility for transporting this traffic rests with the east side lines until its delivery to complainants in St. Louis. This might be different if by agreement between the east side and west side lines the delivery was to be made at some other point than at St. Louis, but the west side lines have concurred in no such agreement, and no arbitrary publication of tariffs or

division sheets can take the place of such voluntary agreement.

Defendants' practice is contrary to the generally accepted practice throughout the country. The usual practice among rail carriers is to divide the switching expenses when the services of an intermediate carrier are utilized in effecting interchange, the switching charge being absorbed by the carrier that delivers the traffic to its connection. There is a generally recognized obligation on part of all carriers on through traffic to make delivery on the rails of their connections, either direct or by bearing the charges of the intermediate switching line, and this is the general practice of railroads throughout the country. We believe this to be a just, fair, and reasonable practice for general application, and one which should be followed by the carriers serving the St. Louis-East St. Louis district. We are not unmindful of the fact that such a practice, if applied at St. Louis and East St. Louis, cannot bring about exact reciprocity because the volume of the through traffic is considerably greater eastbound than westbound, but complainants are not asking for exact reciprocity; moreover, we believe that adoption of this practice at interchange points generally would distribute the costs of interchange switching among the respective carriers as a whole in a fair and equitable manner.

We find that for the future the practice of the east side lines in requiring the west side lines to bear the transfer charges on westbound freight traffic moving through St. Louis and East St. Louis on combination rates which are the same on St. Louis as on East St. Louis will be unjust and unreasonable, and that the just and reasonable practice with respect to such traffic will be for the east side lines to bear or absorb all such transfer charges.

With respect to westbound traffic moving on joint rates, we are not convinced that the reception for a number of years by the west side lines of divisions of such joint rates in which the transfer charge was included does not constitute an acquiescence by the west side lines in such divi- [fol. 34] sions which is tantamount to an agreement on their part to pay the transfer charge on such traffic. As to traffic moving under joint rates, therefore, we are not prepared at this time to make a definite finding upon the issues and

record before us. We commend to the interested carriers, however, a careful study of the divisions of joint rates on westbound traffic, with a view to readjustment thereof if and where necessary to conform to the just and reasonable practice in respect of interchange switching hereinabove approved for general application. If this is not done within a reasonable time complainants are at liberty to again bring this matter to our attention.

We cannot upon this record determine the extent of the damage which complainants may have suffered under the practice herein found unlawful. It is apparent that had the practice herein prescribed been in effect some of the traffic delivered to complainants would have been delivered to the Alton and other carriers serving western territory having their own rails into East St. Louis. The record is far from definite enough to permit a determination of the amount of the damage which any of complainants may have suffered. Accordingly, there is no need for a finding as to the past, and reparation is denied.

Our conclusions herein will be understood not to prejudice in any way the findings which may be reached in No. 14534, Rates, Regulations, and Practices of Peoria & Pekin Union Railway Company at Peoria, Ill., and Nearby Points, and consolidated cases, now pending.

An appropriate order for the future will be entered.

Corrected Order

[fol. 35] At a General Session of the Interstate Commerce Commission, Held at its Office in Washington, D. C., on the 12th Day of July, A. D. 1926

No. 16697

THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company, and St. Louis-San Francisco Railway Company

v.

THE BALTIMORE AND OHIO RAILROAD COMPANY, BALTIMORE and Ohio Southwestern Railroad Company, The Chicago and Alton Railroad Company, William W. Wheelock and William G. Bierd, Receivers; Chicago, Burlington &

Quincy Railroad Company, The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, Illinois Central Railroad Company, Louisville and Nashville Railroad Company, Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, St. Louis Southwestern Railway Company; Wabash Railway Company; Terminal Railroad Association of St. Louis, St. Louis Merchants Bridge Terminal Railway Company, The Wiggins Ferry Company, East St. Louis Connecting Railway Company, St. Louis Transfer Railway Company, Missouri and Illinois Bridge and Belt Railroad Company, East St. Louis and Carondelet Railway Company, Granite City and Madison Belt Line Railroad Company, Illinois Traction, Inc., St. Louis Electric Terminal Railway Company, Illinois Terminal Company, Alton and Southern Railroad, Chicago, Peoria and St. Louis Railroad Company, Wm. Cotter, Receiver; Litchfield and Madison Railway Company, Mobile and Ohio Railroad Company, Chicago and Eastern Illinois Railway Company, East St. Louis Junction Railroad, Southern Traction Company of Illinois, Toledo, St. Lous and Western Railroad Company, The New York, Chicago and St. Louis Railroad Company, The Pennsylvania Railroad Company, The Southern Railway Company, St. Louis & Belleville Electric Railway Company, St. Louis and Ohio River Railroad, The St. Louis and O'Fallon Railway Company, The St. Louis, Troy and Eastern Railroad Company, East St. Louis, Columbia & Waterloo Railway, East St. Louis & Suburban Railway [fol. 36] Company, and Louisville, Henderson & St. Louis Railway Company

This case being at issue, upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission having, on the date hereof, made and filed report containing its finding of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before October 12, 1926, and thereafter to abstain from the

practice of requiring the above-named complainants, together with the Chicago, Burlington & Quincy Railroad Company and the Wabash Railway Company, to bear the charges for transfer services from East St. Louis, Ill., to St. Louis, Mo., on westbound freight traffic passing through both points on combination rates which are the same on St. Louis as on East St. Louis.

It is further ordered, That said defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish, on or before October 12, 1926, upon notice to this commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the interstate commerce act, and thereafter to maintain and apply to the transportation of westbound freight traffic passing through both East St. Louis, Ill., and St. Louis, Mo., on combination rates which are the same on St. Louis as on East St. Louis, and delivered to complainants, or the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company, the practice of bearing or absorbing on such traffic the charges for transfer services from defendants' lines in East St. Louis, Ill., to the lines of complainants, or of the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company in St. Louis, Mo.

And it is further ordered, That this order shall continue in force until the further order of the commission.

By the commission.

George B. McGinty, Secretary. (Seal.)

[fol. 37] Exhibit No. 2 to Bill of Complaint

Order

At a General Session of the Interstate Commerce Commission, Held at Its Office, in Washington, D. C., on the 20th Day of August, A. D. 1926

No. 16027

Chicago, Rock Island & Pacific Railway Company et al.

v.

Baltimore & Ohio Railroad Company et al.

Upon petition of defendants, and for good cause shown:

It is ordered, That the effective date of the order, as corrected, of July 12, 1926 entered herein be, and it is hereby postponed to December 11, 1926.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 38] Exhibit No. 3 to Bill of Complaint

Filed Feb. 5, 1925

Interstate Commerce Commission

Docket No. 16027

The Chicago, Rock Island and Pacific Railway Company, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company, St. Louis-San Francisco Railway Company, Complainants,

vs.

The Baltimore and Ohio Railroad Company et al., Defendants

Complaint

W. T. Hughes, C. S. Burg, H. H. Larimore, M. G. Roberts, Attorneys for Complainants.

St. Louis, Mo., February 3, 1925.

[fol. 39] Before the Interstate Commerce Commission

The Chicago, Rock Island and Pacific Railway Company, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company, St. Louis-San Francisco Railway Company, Complainants,

vs.

The Baltimore and Ohio Railroad Company, Baltimore and Ohio Southwestern Railroad Company, William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company, Chicago, Burlington and Quincy Railroad Company, The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, Illinois Central Railroad Company, Louisville and Nashville Railroad Company, Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, St. Louis Southwestern Railway Company, Wabash Railway Company, Terminal Railroad Association of St. Louis, St. Louis Merchants Bridge Terminal Railway Company, The Wiggins Ferry Company, East St. Louis Connecting Railway Company, The St. Louis Transfer Railway Company, Missouri and Illinois Bridge and Belt Railroad Company, East St. Louis and Carondolet Railway Company, Granite City and Madison Belt Line Railroad Company, Illinois Traction, Inc., St. Louis Electric Terminal Railway Company, Illinois Terminal Railroad Company, Alton and Southern Railroad Company, Chicago, Peoria and St. Louis Railroad Company, Litchfield and Madison Railway Company, Mobile and Ohio Railroad Company, Chicago and Eastern Illinois Railway Company, East St. Louis Junction Railroad Company, Southern Traction Company of Illinois, Toledo, St. Louis and Western Railroad Company, New York, Chicago and St. Louis Railroad Company, The [fol. 40] Pennsylvania Railroad Company, The Southern Railway Company (St. Louis-Louisville Division), Southern Railway Company, St. Louis and Belleville Electric Railway Company, St. Louis and Ohio River Railroad Company, St. Louis and O'Fallon Railway Company, St. Louis, Troy and Eastern Railroad Company, The, and other common carriers by railroad shown in the appendix hereto attached, Defendants

Complaint

The complainants in the above entitled complaint respectfully show:

I

That The Chicago, Rock Island and Pacific Railway Company is a railroad corporation organized under the laws of the States of Iowa and Illinois and has its principal office at Chicago, Illinois; that the Missouri-Kansas-Texas Railroad Company is a railroad corporation organized under the laws of the State of Missouri and has its principal office at St. Louis, Missouri; that the Missouri Pacific Railroad Company is a corporation organized under the laws of the State of Missouri and has its principal office at St. Louis, Missouri; that the St. Louis-San Francisco Railway Company is a railroad corporation organized under the laws of the State of Missouri and has its principal office at St. Louis, Missouri; that the complainants and defendants herein are common carriers engaged in the transportation of passengers and property wholly by railroad between points in the State of Missouri and points in the State of Illinois and other states, and as such are subject to the provisions of the Interstate Commerce Act.

[fol. 41] II

That the defendants, The Terminal Railroad Association, St. Louis Merchants Bridge Terminal Railway Company, The Wiggins Ferry Company, East St. Louis Connecting Railway Company, St. Louis Transfer Railway Company, Missouri and Illinois Bridge and Belt Railway Company, Granite City and Madison Belt Line Railroad Company, Illinois Traction, Inc., St. Louis Electric Terminal Railway Company and Illinois Terminal Railroad Company, have for many years and are now engaged in carrying freight, both carload and less than carload, across the Mississippi River between St. Louis, Missouri, and East St. Louis, Illinois, switching districts, as described in Agent Leland's Tariff I. C. C. No. 1702, and also across the Mississippi River between Alton, Illinois, and West Alton, Missouri; that in addition to the use of their bridges and rails across the Mississippi River in transferring the

said traffic, the said defendants herein named, as well as the other defendants having lines coming into East St. Louis from the north, east and south and east of the Mississippi River, avail themselves also in transferring such traffic of the services of the following transfer companies, to-wit: Central Transfer Company, Columbia Terminals Company, Fidelity Transfer Company, and the McMahon Transfer Company; that the said Terminal Railroad Association of St. Louis, and its affiliated companies, to-wit, St. Louis Merchants Bridge Terminal Railway Company, The Wiggins Ferry Company, East St. Louis Connecting Railway Company, St. Louis Transfer Railway Company, Missouri and Illinois Bridge and Belt Railway Company, and Granite City and Madison Belt Railroad Company, and other defendants to this complaint, exact, demand and receive for their services in transporting freight across the Mississippi River between the places aforesaid, certain sums of money in the form of freight charges which vary in amounts depending upon the class or kind of traffic transported and which said charges on both through west and east bound traffic are ultimately paid and borne by the carriers, including these complainants whose lines of railroad come into St. Louis, Missouri, from the west, commonly known as the west side lines.

[fol. 42]

III

That the Terminal Railroad Association of St. Louis and its affiliated companies as hereinbefore described, are corporations and are controlled through stock ownership in equal parts by the following common carriers who are either complainants or defendants herein, to-wit:

The Baltimore and Ohio Southwestern Railroad Company,

William W. Wheelock and William G. Bierd, Receivers of The Chicago and Alton Railroad Company,

Chicago, Burlington and Quincy Railroad Company,

The Cleveland, Cincinnati, Chicago and St. Louis Railway Company,

Illinois Central Railroad Company,

Louisville and Nashville Railroad Company,

Missouri-Kansas-Texas Railroad Company,
Missouri Pacific Railroad Company,
The Pennsylvania Railroad Company,
Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company,
St. Louis Southwestern Railway Company,
Southern Railway Company,
St. Louis-San Francisco Railway Company,
Wabash Railway Company;

that the complainants herein and other carriers owning and operating lines of railroad entering St. Louis from the west for many years have paid and borne the transfer charges of the carriers named in Paragraph II herein on both east and west bound through traffic transported across the Mississippi River at the points hereinbefore mentioned and that, as a consequence thereof, the carriers owning and operating lines east of the Mississippi River at the said points do not pay and bear any part of the transfer charges so collected by the companies named in Paragraph II herein on either westbound or eastbound through traffic, that is to say, westbound traffic destined to points beyond the St. Louis switching district and eastbound traffic destined to points beyond the East St. Louis switching district; that the carriers operating lines east of the Mississippi River, own and control a majority of the stock of the said Terminal Railroad Association of St. Louis and its affiliated [fol. 43] companies, and by reason thereof, the said carriers, defendants herein, have succeeded in forcing these complainants as west side lines to pay and ultimately bear the said transfer charges on both eastbound and westbound through traffic across the Mississippi River at the said points; that for many years these complainants have sought and endeavored by every means at their command to relieve themselves of the undue burden of paying the said transfer charges on both eastbound and westbound through traffic across the Mississippi River at the points aforesaid, but the defendants herein have failed, neglected and refused to participate in paying any part of the said charges, either on westbound or on eastbound through traffic; that these complainants are without remedy unless and until this Commission intervenes and requires the east side lines to bear a proper portion thereof.

IV

That under the present practice in effect at the St. Louis and East St. Louis gateway and between Alton, Illinois, and West Alton, Missouri, these complainants and other west side lines are compelled to and do assume the burden of effecting delivery of all eastbound through traffic at points on the east side of the Mississippi River and are compelled to and do assume the burden of accepting and receiving all westbound through traffic also at points on the east side of the Mississippi River, that is to say, at the present time the point of interchange between the west side lines, on the one hand, and the east side lines, on the other, as to all through traffic, whether eastbound or westbound, passing through the St. Louis-East St. Louis gateway and West Alton, Missouri, is at points on the east side of the Mississippi River; that these complainants and other west side lines pay and bear the charges incurred by the intermediary lines herein described for transporting the said traffic, both eastbound and westbound, across the Mississippi River as hereinbefore described; that the said practice of requiring these complainants and other west sides lines to assume the burden of delivering through eastbound traffic at points on the east side of the Mississippi River and to accept and receive all westbound through traffic at points on the east side of the Mississippi River, and to pay and ultimately bear the transfer charges for all the said [fol. 44] through westbound and eastbound traffic through said gateways, is unjust, unreasonable, unduly preferential, unjustly discriminatory and unduly prejudicial, unlawful and illegal within the meaning of those terms as used in the Interstate Commerce Act, as between these complainants and other west side lines, on the one hand, and the defendants, on the other; that under a proper, just, reasonable, lawful, non-prejudicial and non-preferential practice, the defendants herein owning or operating railway lines east of the Mississippi River, to-wit, the carriers referred to herein as the east side lines, should assume the burden of and effect delivery of all through westbound traffic at St. Louis, Missouri, and at West Alton, Missouri, and should pay and ultimately bear the transfer charges thereon; that under a proper, just, reasonable, lawful, non-

prejudicial and non-preferential practice, the point of interchange as to all through westbound traffic should be on the west side of the Mississippi River; that by reason of the facts herein stated, these complainants have been subjected severally and jointly to the payment of transfer charges for the transportation of freight as aforesaid across the Mississippi River, which were, when exacted, and still are, unjust, unreasonable, unlawful, unduly prejudicial and unduly preferential, in violation of the provisions of the Interstate Commerce Act applicable thereto.

V

That while the east side lines have terminals on the west bank of the Mississippi River for handling local traffic destined to or originating at St. Louis, Missouri, by virtue of the instrumentalities of the Terminal Railroad Association of St. Louis and the latter's affiliated and subsidiary properties, and of the various transfer companies heretofore cited, they assume to have no such terminals or instrumentalities on the west bank for delivering to or receiving from their connections traffic passing through St. Louis, Missouri, or West Alton, Missouri, destined to points beyond; that said east side lines have failed, neglected and refused and they do now fail, neglect and refuse to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes, all in violation of the duties imposed upon them by the Interstate Commerce Act.

[fol. 45] VI

That the failure, neglect and refusal of the said defendants herein to bear the burden of and to effect delivery on the west side of the Mississippi River of all through westbound traffic and to bear and pay the transfer charges for transporting the same across the said Mississippi River, for two years next preceding the filing of this complaint, has resulted in damages to each of these complainants and that, by reason thereof, each of these complainants has been injured to its damage in the sum of not less than Five Hundred Thousand Dollars ($500,000) or in the aggregate the sum of Two Million Dollars ($2,000,000).

VII

That the failure, neglect and refusal of the said defendants herein to provide reasonable facilities for operating through routes for westbound traffic passing through St. Louis, Missouri, and West Alton, Missouri, and to make reasonable rules and regulations with respect to the operation of said through routes for two years next preceding the filing of this complaint have resulted in damages to each of these complainants and that, by reason thereof, each of these complainants has been injured to its damage in the sum of not less than Five Hundred Thousand Dollars ($500,000) or in the aggregate the sum of Two Million Dollars ($2,000,000).

VIII

Wherefore, these complainants pray that the defendants may be severally required to answer the charges herein; that after due hearing and investigation an order be made commanding the defendants to cease and desist from the aforesaid practices as hereinbefore described; that the defendant east side lines be required to pay and bear the transfer charges on all westbound traffic through said gateways and be required to effect delivery thereof to the west side lines at the St. Louis switching district and at West Alton, Missouri, or on the west side of the river; that the [fol. 46] defendants herein described as east side lines be required to provide reasonable facilities for operating through routes through St. Louis, Missouri, East St. Louis, Illinois, and West Alton, Missouri, Alton, Illinois, and to make reasonable rules and regulations therefor; that the defendants referred to herein as the east side lines be required to pay to each of the complainants by way of damages for the unlawful practices hereinbefore set forth such sums as in view of the evidence adduced herein the Commission shall determine that each of the complainants is entitled to and that the Commission make such further or other orders herein as the facts herein set forth and the evidence introduced at the hearing may warrant under the law applicable thereto.

Dated this 3rd day of February, 1925.

Chicago, Rock Island and Pacific Railway Company, by Wallace T. Hughes, Its Attorney, 1025 La Salle St. Station, Chicago, Illinois. Missouri-

Kansas-Texas Railroad Company, by C. S. Burg, Its Attorney, Railway Exchange Bldg., St. Louis, Missouri. Missouri Pacific Railroad Company, by H. H. Larimore, Its Attorney, Railroad Exchange Bldg., St. Louis, Missouri. St. Louis-San Francisco Railway Company, by M. G. Roberts, Its Attorney, 1025 Frisco Building, St. Louis, Missouri.

St. Louis, Mo., February 3, 1925.

[fol. 47] Appendix

Aberdeen and Rockfish Railroad Company
Abilene and Southern Railway Company
The Akron, Canton and Youngstown Railway Company
Alabama and North Western Railroad Company
The Alabama and Vicksburg Railway Company
Alabama Central Railroad Company
Alabama Central Railway
Alabama, Florida and Gulf Railroad Company
The Alabama Great Southern Railroad Company
Alabama Northern Railway Company (R. L. Schuesser, Receiver)
Alabama, Tennessee and Northern Railroad Corporation
Alabama, Tennessee and Northern Railway
Alton and Southern Railroad
Alton, Granite and St. Louis Traction Company (Fred E. Allen and W. H. Sawyer, Receivers)
Andulusia, Florida and Gulf Railway Company
Arkansas and Louisiana Missouri Railway Company
The Arkansas Western Railway Company
Aroostook Valley Railroad Company
Asherton and Gulf Railway Company
Asheville Southern Railway Company
The Atchison, Topeka and Santa Fe Railway Company
Atlanta and Saint Andrews Bay Railway Company
Atlanta and West Point Railroad Company
Atlanta, Birmingham and Atlantic Railway Company (B. L. Bugg, Receiver)
The Atlanta, Stone Mountain and Lithonia Railway Company

Atlantic and Carolina Railroad Company
Atlantic and Western Railroad Company
Atlantic City and Shore Railroad Company
Atlantic Coast Line Railroad Company
Atlantic Northern Railway Company
Augusta and Summerville Railroad Company
Augusta Northern Railway
Aurora, Elgin and Fox River Electric Company
Aurora, Plainfield and Joliet Railroad Company
The Baltimore and Ohio Chicago Terminal Railroad Company
Baltimore, Chesapeake and Atlantic Railway Company
Bangor and Aroostock Railroad Company
[fol. 48] Bay Point and Clayton Railroad Company
The Beaumont, Sour Lake and Western Railway Company
Beaver, Meade and Englewood Railroad Company
The Belt Railway Company of Chicago
Bessemer and Lake Erie Railroad Company
Bingham and Garfield Railway Company
Birmingham and Northwestern Railway Company
Birmingham and Southeastern Railway Company (Winton M. Blount and John T. Cochrane, Receivers)
Birmingham, Columbus and Saint Andrews Railroad Company (S. A. Alford, Receiver)
Birmingham, Selma and Mobile Railroad Company
Birmingham Southern Railroad Company
Black Mountain Railway Company
Blytheville, Leachville and Arkansas Southern Railroad Company
Boston and Albany Railroad (The New York Central Railroad Company, Lessee)
Boston and Maine Railroad
Boyne City, Gaylord and Alpena Railroad Company
The Brownwood North and South Railway Company
Buffalo and Susquehanna Railroad Corporation
Buffalo, Rochester and Pittsburgh Railway Company
Cache Valley Railroad Company
Cadiz Railroad Company
Cairo and St. Louis Railway Company
Cairo, Truman and Southern Railroad Company
California Central Railroad Company
California, Shasta and Eastern Railway Company

California Western Railroad and Navigation Company
Camas Prairie Railroad Company
Cambria and Indiana Railroad Company
Camino, Placerville and Lake Tahoe Railroad Company
The Canada and Gulf Terminal Railway Company
Canadian National Railway Company
Canadian Pacific Railway Company
Cape Girardeau Northern Railway Company (Clarence L. Grant, Receiver)
Cape May, Delaware Bay and Sewell's Point Railroad Company
Carolina and Northeastern Railroad Company
Carolina and Northwestern Railway Company
Carolina and Tennessee Southern Railway Company
Carolina Railroad Company
[fol. 49] Carrollton and Worthville Railroad Company
Central Illinois Traction Company
Central Indiana Railway Company
Central New England Railway Company
Central of Georgia Railway Company
The Central Railroad Company of New Jersey
Central Railroad Company of Indianapolis
Central Railway Company of Arkansas
Central Vermont Railway Company
Central West Virginia and Southern Railroad Company
Charleston and Western Carolina Railway Company
Chattahoochee Valley Railway Company
Chattanooga and Montlake Railway Company
The Chesapeake and Ohio Railway Company
Chesapeake Western Railway
Chesterfield and Lancaster Railroad Company
Chestnut Ridge Railway Company
Cheswick and Harmar Railroad Company
The Chicago and Alton Railroad Company (William W. Wheelock and William G. Bierd, Receivers)
Chicago and Calumet River Railroad Company
Chicago and Erie Railroad Company
Chicago and Illinois Midland Railway Company
Chicago and Illinois Western Railroad
Chicago and North Western Railway Company
Chicago and Western Indiana Railroad Company
Chicago, Attica and Southern Railroad Company

Chicago, Aurora and Elgin Railroad Company
The Chicago, Detroit and Canada Grand Trunk Junction Railroad Company (Canadian National Railway Company, Lessee)
Chicago, Great Western Railroad Company
Chicago, Harvard and Geneva Railway Company
Chicago, Indianapolis and Louisville Railway Company
Chicago, Kalamazoo and Saginaw Railway Company
The Chicago, Lake Shore and South Bend Railway Company
Chicago, Milwaukee and Gary Railway Company
Chicago, Milwaukee and St. Paul Railway Company
Chicago, North Shore and Milwaukee Railroad Company
Chicago, Palatine and Wauconda Railroad Company
The Chicago River and Indiana Railroad Company
The Chicago, Rock Island and Gulf Railway Company
Chicago, Saint Paul, Minneapolis and Omaha Railway Company
Chicago Short Line Railway Company
[fol. 50] Chicago, South Bend and Northern Indiana Railway Company
Chicago, West Pullman and Southern Railroad Company
Christie and Eastern Railway Company
The Cimarron and Northwestern Railway Company
Cincinnati, Burnside and Cumberland River Railway Company
The Cincinnati, Georgetown and Portsmouth Railroad Company
The Cincinnati, Indianapolis and Western Railroad Company
The Cincinnati, Lawrenceburg and Aurora Electric Street Railroad Company, (C. E. Hooven and Charles H. Deppe, Receivers)
The Cincinnati, New Orleans and Texas Pacific Railway Company
The Cincinnati Northern Railroad Company
Cincinnati, Saginaw and Mackinaw Railroad Company (Canadian National Railway Company, Lessee)
The Clarendon and Pittsford Railroad Company
The Cleveland, Painesville and Ashtabula Railroad Company
The Cleveland, Painesville and Eastern Railroad Company

Clinton, Davenport and Muscatine Railway Company
The Colorado and Southeastern Railroad Company
The Colorado and Southern Railway Company
The Colorado and Wyoming Railway Company
Columbia, Newberry and Laurens Railroad Company
Columbus and Greenville Railway Company
The Columbus, Marion and Bucyrus Railway Company
The Columbus, Newark and Zanesville Electric Railway Company (John S. Bleecker, Receiver)
Colusa and Hamilton Railroad Co.
Combs, Cass and Eastern Railroad Company
The Cooperstown and Charlotte Valley Railroad Company
Danville and Western Railway Company
Dardanelle and Russellville Railroad Company
Davenport, Rock Island and North Western Railway Company
The Dayton and Troy Electric Railway Company
Dayton and Union Railroad Company
The Dayton, Springfield and Xenia Southern Railway Company (Robert K. Landis, Receiver)
The Delaware and Hudson Company
Delaware and Northern Railroad Company (Andrew M. Moreland and James J. Welch, Receivers)
[fol. 51] The Delaware, Lackawanna and Western Railroad Company
Delaware Valley Railway Company
The Denver and Rio Grande Western Railroad Company (T. H. Beacom, Receiver)
The Denver and Salt Lake Railroad Company (W. R. Freeman and C. Boettcher, Receivers)
De Queen and Eastern Railroad Company
Des Moines and Central Iowa Railroad
The Detroit and Toledo Shore Line Railroad Company
Detroit, Grand Haven and Milwaukee Railway Company
Detroit, Jackson and Chicago Railway
Detroit, Monroe and Toledo Short Line Railway
Detroit, Toledo and Ironton Railroad Company
Dexter and Northern Railroad Company
The Duluth and Iron Range Railroad Company
Duluth and Northeastern Railroad Company
Duluth, Missabe and Northern Railway Company
The Duluth, South Shore and Atlantic Railway Company

East Jersey Railroad and Terminal Company
East Jordan and Southern Railroad Company
Eastland, Wichita Falls and Gulf Railroad Company
East St. Louis and Suburban Railway Company
East St. Louis, Columbia and Waterloo Railway
East St. Louis Junction Railroad
East St. Louis Railway Company
East Tennessee and Western North Carolina Railroad Company
East Texas and Gulf Railway Company
Elgin, Joliet and Eastern Railway Company
El Paso and Southeastern Railroad Company
El Paso Southern Railway Company
The Elwood, Anderson and Lapelle Railroad Company
Erie Railroad Company
Evansville, Indianapolis and Terre Haute Railway Company
Evansville, Suburban and Newburgh Railway Company
The Fairport, Painesville and Eastern Railroad Company
The Federal Valley Railroad Company
The Felicity and Bethel Railroad Company
Florida East Coast Railway Company
Fonda, Johnstown and Gloversville Railroad Company
Fort Dodge, Des Moines and Southern Railroad Company
The Fort Laramie Railway Company
Fort Smith and Western Railway Company
[fol. 52] Fort Smith, Subiaco and Rock Island Railroad Company
Fort Worth and Denver City Railway Company
Fort Worth and Rio Grande Railway Company
Frankfort and Cincinnati Railway Company
Franklin and Pittsylvania Railway Company
Fredericksburg and Northern Railway Company
The Fredericton and Grand Lake Coal and Railway Company
Gainesville and Northwestern Railroad Company (Jno. D. Patterson, receiver)
Galesburg and Great Eastern Railroad Company
The Galveston, Harrisburg and San Antonio Railway Company
Galveston, Houston and Henderson Railroad Company
Georgia, Ashburn, Sylvester and Camilla Railway Company
Georgia, Florida and Alabama Railway Company

The Georgia Northern Railway Company
Georgia, Southern and Florida Railway Company
The Georgia, Southwestern and Gulf Railroad Company
The Gilmore and Pittsburgh Railroad Company, Limited
The Grand Rapids, Grand Haven and Muskegon Railway Company
The Grand River Railway Company
The Grand River Valley Railway Company
Grand Trunk Western Railway Company
Graysonia, Nashville and Ashdown Railroad Company
Great Northern Railway Company
Great Southern Railroad Company
The Great Western Railway Company
Green Bay and Western Railroad Company
Greenbrier and Eastern Railroad Company
Greenville and Northern Railway Company
Greenwich and Johnsonville Railway Company
Groveton, Lufkin and Northern Railway Company
Gulf and Northern Railway Company
Gulf and Ship Island Railroad Company
Gulf, Colorado and Santa Fe Railway Company
Gulf, Mobile and Northern Railroad Company
Gulfport and Mississippi Coast Traction Company
Gulf, Texas and Western Railway Company (W. Frank Knox, Receiver)
Hampton and Branchville Railroad Company
Hannibal Connecting Railroad Company
High Point, Randleman, Asheboro and Southern Railroad Company
[fol. 53] High Point, Thomasville and Denton Railroad Company
Hill City Railway Company
Hillsboro and North Eastern Railway Company
The Hocking Valley Railway Company
Houston and Brazos Valley Railway Company
Houston and Brazos Valley Terminal Company
Houston and Shreveport Railroad Company
Houston and Texas Central Railroad Company
Houston Belt and Terminal Railway Company
The Houston East and West Texas Railway Company
Iberia and Vermilion Railroad Company
The Illinois Central Electric Railway
Illinois Northern Railway

Illinois Terminal Company
Illinois Traction System, comprising the following carriers:
Illinois Traction, Incorporated
St. Louis Electric Terminal Railway Company
Indiana Northern Railway Company
Indianapolis and Cincinnati Traction Company
Inland Empire Railroad Company
Intermountain Railway Company
International-Great Northern Railroad Company
International Railway Company
Interstate Railroad Company
Iowa Southern Utilities Company
The Ironton Railroad Company
Island Transportation Company (St. Ignace, Michigan)
Jackson and Eastern Railway Company
Jamestown, Westfield and Northwestern Railroad Company
Jefferson and Northwestern Railway Company
Johnstown and Stony Creek Railroad Company
Jonesboro, Lake City and Eastern Railroad Company
Joplin and Pittsburg Railway Company (K. D. Klemm, Receiver)
The Kanawha Central Railway Company
Kanawha, Glen Jean and Eastern Railroad Company
Kane and Elk Railroad Company
Kankakee and Urbana Traction Company
The Kansas and Oklahoma Railway Company (H. J. Duvall, Receiver)
The Kansas and Sidell Railroad Company
Kansas City, Clay County and St. Joseph Railway Company
[fol. 54] The Kansas City Connecting Railroad Company
The Kansas City, Kaw Valley and Western Railway Company (Harry C. Jones, Receiver)
The Kansas City, Mexico and Orient Railroad Company (William T. Kemper, Receiver)
Kansas City, Mexico and Orient Railway Company (Lines in Mexico) (William T. Kemper and S. W. Rider, Receivers)
Kansas City, Mexico and Orient Railway Company of Texas
The Kansas City Southern Railway Company
Kansas City Terminal Railway Company
Kansas, Oklahoma and Gulf Railway Company (H. W. Gibson and H. L. Traber, Receiver)

Kansas, Oklahoma and Gulf Railway Company of Texas
Keeseville, Ausable Chasm and Lake Champlain Railroad Company
Kewaunee, Green Bay and Western Railroad Company
Kinston Carolina Railroad Company
Knoxville and Carolina Railroad Company
La Crosse and Southeastern Railway Company
Lake Champlain and Moriah Railroad Company
Lake Charles and Northern Railroad Company
The Lake Erie and Eastern Railroad Company
The Lake Erie and Fort Wayne Railroad Company
The Lake Erie and Northern Railway Company
Lake Erie, Franklin and Clarion Railroad Company
Lake Huron and Northern Ontario Railway Company
Laurinburg and Southern Railroad Company
The Leavenworth and Topeka Railroad Company
The Lehigh and Hudson River Railway Company
Lehigh and New England Railroad Company
Lehigh Valley Railroad Company
The Long Island Railroad Company
Longview, Portland and Northern Railway Company
The Lorain and Southern Railroad Company
The Lorain and West Virginia Railway Company
The Lorain, Ashland and Southern Railroad Company
Loranger, Louisiana and Northeastern Railroad Company (A. Loranger, Receiver)
Los Angeles and Salt Lake Railroad Company
Louisiana and Arkansas Railway Company
The Louisiana and Northwest Railroad Company
Louisiana and Pacific Railway Company
Louisiana and Pine Bluff Railway Company
Louisiana East and West Railroad Company
[fol. 55] Louisiana Railway and Navigation Company
Louisiana Railway and Navigation Company of Texas
Louisiana Southern Railway Company
Louisiana Western Railroad Company
Louisville and Wadley Railroad Company
Louisville, Henderson and St. Louis Railway Company
Louisville, New Albany and Corydon Railroad Company
The Lowville and Beaver River Railroad Company
Lufkin Hemphill and Gulf Railway Company
Macon, Dublin and Savannah Railroad Company

Maine Central Railroad Company
Manchester and Oneida Railway Company
Manistique and Lake Superior Railroad Company
Manitoba Great Northern Railway Company
Manufacturers' Railway Company (St. Louis)
Marinette, Tomahawk and Western Railroad Company
Marion and Eastern Railroad Company
Marion and Southern Railroad Company
Maryland and Pennsylvania Railroad Company
Mason City and Clear Lake Railroad Company
Miami Mineral Belt Railroad Company
The Michigan Air Line Railway
The Michigan Central Railroad Company
Milwaukee Northern Railway Company
The Minneapolis and St. Louis Railroad Company (W. H. Bremner, Receiver)
Minneapolis, Anoka and Cuyuna Range Railway Company
Minneapolis Eastern Railway Company
Minneapolis, Northfield and Southern Railway
Minneapolis, Red Lake and Manitoba Railway Company
Minneapolis, St. Paul and Sault Ste. Marie Railway Company
Minnesota and International Railway Company
Minnesota, Dakota and Western Railway Company
Mississippi and Alabama Railroad Company
Mississippi and Western Railroad Company
Mississippi Central Railroad Company
Mississippi Eastern Railway Company
Mississippi River and Bonne Terre Railway
Mississippi-Warrior Service
The Missouri and Kansas Railway Company
The Missouri and North Arkansas Railway Company
Missouri-Illinois Railroad Company
Missouri, Kansas and Texas Railway Company
[fol. 56] Missouri-Kansas-Texas Railroad Company of Texas
Missouri Southern Railroad Company
Montana, Wyoming and Southern Railroad Company
Moore Haven and Clewiston Railway Company
Morgan and Fentress Railway Company
Morgan's Louisiana and Texas Railroad and Steamship Company

Muncie and Western Railroad Company
The Murphysboro and Southern Illinois Railway Company
Muscle Shoals, Birmingham and Pensacola Railway Company (W. B. Harbeson, Receiver)
The Nacogdoches and Southeastern Railroad Company
Nacozari Railroad Company
Nashville and Atlantic Railroad Company
The Nashville, Chattanooga and St. Louis Railway
Natchez and Southern Railway Company
The Natchez, Columbia and Mobile Railroad Company
Natchez, Urania and Ruston Railway Company
Nevada-California-Oregon Railway
The Nevada Central Railroad Company
The Newburg and South Shore Railway Company
The New Castle and Lowell Railway Company
The New Castle and Ohio River Railway Company
The New Holland, Higginsport and Mt. Vernon Railroad Company
New Iberia and Northern Railroad Company
The New Jersey and New York Railroad Company
New Jersey and Pennsylvania Traction Company
New Jersey, Indiana and Illinois Railroad Company
New Mexico Central Railway Company
The New Mexico Midland Railway Company
New Orleans and Lower Coast Railroad Company
New Orleans and Northeastern Railroad Company
New Orleans Great Northern Railroad Company
New Oreleans, Natalbany and *and* Natchez Railway Company
New Orleans, Texas and Mexico Railway Company
The New York and Long Branch Railroad Company
New York and Pennsylvania Railway Company
New York and Stamford Railway Company
The New York Central Railroad Company
The New York, Chicago and St. Louis Railroad Company
The New York Connecting Railroad Company
The New York, New Haven and Hartford Railroad Company
[fol. 57] New York, Ontario and Western Railway Company
New York, Susquehanna and Western Railroad Company

New York, Westchester and Boston Railway Company
The New Westminster Southern Railway Company
The Niagara Gorge Railroad Company
Norfolk and Western Railway Company
Norfolk Southern Railroad Company
Northampton and Bath Railroad Company
The Northampton Street Railway Company
North Brookfield Railroad Company
Northeast Oklahoma Railroad Company
The North East Pennsylvania Railroad Company
Northern Alabama Railway Company
Northern Maryland and Tidewater Railroad Company
The Northern Ohio Railway Company
The Northern Ohio Traction and Light Company
Northern Pacific Railway Company
The Northern Pacific Terminal Company of Oregon
North Louisiana and Gulf Railroad Company
Northwestern Coal Railway Company
Northwestern Electric Service Company of Pennsylvania
Northwestern Pacific Railroad Company
Northwestern Pennsylvania Railway Company
Northwestern Railroad Company of South Carolina
The Northwestern Terminal Railway Company (Henry McAllister, Jr., Receiver)
Norwood and St. Lawrence Railroad Company
Oahu Railway and Land Company
Oakdale and Gulf Railway Company
The Ogden Union Railway and Depot Company
Ohio and Kentucky Railway Company
The Ohio River and Western Railway Company
Oklahoma and Arkansas Railway Company (Title Guarantee and Trust Company, Receiver)
Oklahoma City Junction Railway Company
Oklahoma, New Mexico and Pacific Railway Company
Oklahoma Railway Company
Oklahoma-Southwestern Railway Company
Oklahoma Union Railway Company
Okmulgee Northern Railway Company
Olean, Bradford and Salamanca Railway Company
Omaha, Lincoln and Beatrice Railway Company
Oneida and Western Railroad Company

[fol. 58] The Orange and Northwestern Railroad Company
Oregon, California and Eastern Railway Company
Oregon Electric Railway Company
Oregon Pacific and Eastern Railway Company
Oregon Short Line Railroad Company
Oregon-Washington Railroad and Navigation Company
Ouachita and Northwestern Railroad Company
Pacific and Idaho Northern Railway Company
Pacific Coast Railroad Company (Washington)
Pacific Coast Railway Company (California)
Pacific Great Eastern Railway Company
Pacific Northwest Traction Company
Paducah and Illinois Railroad Company
Panhandle and Santa Fe Railway Company
Paragould-Memphis Railroad Company
Paris and Great Northern Railroad Company
Paris and Mt. Pleasant Railroad Company (R. W. Worth am, Receiver)
The Parral and Durango Railroad Company
The Pecos Valley Southern Railway Company
Pencoyd and Philadelphia Railroad Company
Peninsular Railway Company
Pennsylvania and Atlantic Railroad Company
Pennsylvania-New Jersey Railway Company
The Pennsylvania Railroad Company
Peoria and Pekin Union Railway Company
Peoria Hanna City and Western Railway Company
Peoria Railway Terminal Company (W. G. Bierd and H. I. Battles, Receivers)
Pere Marquette Railway Company
Peru La Salle and Deer Park Railroad Company
Philadelphia and Chester Valley Railroad Company
Philadelphia, Bethelehem and New England Railroad Company
The Philadelphia, Newton and New York Railroad Company
Piedmont and Northern Railway Company
Pittsburgh, Allegheny and McKees Rocks Railroad Company
The Pittsburgh and Lake Erie Railroad Company
Pittsburgh and Ohio Valley Railway Company
The Pittsburgh and Shawmut Railroad Company

Pittsburgh and Susquehanna Railroad Company
The Pittsburgh and West Virginia Railway Company
Pittsburgh, Chartiers and Youghiogheny Railway Company
[fol. 59] Pittsburgh County Railway Company
The Pittsburgh, Lisbon and Western Railroad Company
The Pittsburgh, Shawmut and Northern Railroad Company (J. D. Dickson, Receiver)
The Pontiac, Oxford and Northern Railroad Company
Port Bolivar Iron Ore Railway Company
Port Huron and Detroit Railroad Company
Port Townsend and Puget Sound Railway Company
The Potomac, Fredericksburg and Piedmont Railroad Company
Quakertown and Bethlehem Railroad Company
Quanah, Acme and Pacific Railway Company
Quincy, Omaha and Kansas City Railroad Company
Quincy Railroad Company
Raleigh and Charleston Railroad Company
Rapid City, Black Hills and Western Railroad Company
The Reading and Columbia Railroad Company
Reading Company
Reynoldsville and Falls Creek Railroad Company
Richmond, Fredericksburg and Potomac Railroad Company
Rio Grande and Eagle Pass Railway Company
The Rio Grande Southern Railroad Company
The Roberval and Saguenay Railway Company
The Roby and Northern Railroad Company
Rochester and Syracuse Railroad Company, Incorporated
Rochester, Lockport and Buffalo Railroad Corporation
Rock Island Memphis Terminal Railway Company
Rock Island Southern Railway Company
Rock Port, Langdon and Northern Railway Company
Rutland Railroad Company
Sabine and Neches Valley Railway Company
Sacramento Valley and Eastern Railway
The St. Joseph and Grand Island Railway Company
St. Louis and Belleville Electric Railway Company
St. Louis and East St. Louis Electric Railway Company
St. Louis and Hannibal Railroad Company
The St. Louis and O'Fallon Railway Company
St. Louis and Ohio River Railroad
St. Louis Belt and Terminal Railway Company

The St. Louis, Brownsville and Mexico Railway Company
St. Louis, El Reno and Western Railway Company (L. T. Tune, Receiver)
[fol. 60] St. Louis, Kennett and Southeastern Railroad Company
St. Louis, San Francisco and Texas Railway Company
St. Louis Southwestern Railway Company of Texas
The St. Louis Troy and Eastern Railroad Company
Salem, Winona and Southern Railroad Company
Salt Lake and Utah Railroad Company
Salt Lake, Garfield and Western Railway Company
The San Antonio and Aransas Pass Railway Company
San Antonio Southern Railway Company
San Antonio, Uvalde and Gulf Railroad Company (A. R. Ponder, Receiver)
San Benito and Rio Grande Valley Railway Company
San Diego and Arizona Railway Company
Sand Springs Railway Company
Sandy River and Rangeley Lakes Railroad (Josiah S. Maxey and Herbert S. Wing, Receivers)
The Sandy Valley and Elkhorn Railway Company
San Francisco, Napa and Calistoga Railway
San Francisco, Sacramento Railroad Company
San Joaquin and Eastern Railroad Company
The San Luis Central Railroad Company
The San Luis Southern Railway Company (C. A. Robinson, Receiver)
Savannah and Statesboro Railway Company
Scranton, Montrose and Binghamton Railroad Company
Seaboard Air Line Railway Company
Shreveport, Alexandria and Southwestern Railway System, comprised of
    Louisiana and Pacific Railway Company
    The Sibley, Lake Bisteneau and Southern Railway Company
    The Woodworth and Louisiana Central Railway Company
Shreveport, Houston and Gulf Railroad Company
The Sibley, Lake Bisteneau and Southern Railway Company
The Sievern and Knoxville Railroad Company
The Silverton Railway Company

The Sligo and Eastern Railroad Company
Southern Illinois Railway and Power Company
Southern Michigan Railway Company
Southern Pacific Company
Southern Pacific Terminal Company
Southern Railway Company (St. Louis-Louisville Lines)
The South Shore Railroad Company
[fol. 61] The Southwest Missouri Railroad Company
Spokane and Eastern Railway and Power Company
Spokane Interational Railway Company
Spokane, Portland and Seattle Railway Company
The Springfield and Xenia Railway Company
The Springfield Suburban Railway Company
The Staten Island Rapid Transit Railway Company
Sumpter Valley Railway Company
Sumter and Choctaw Railway Company
Superior and Southeastern Railway Company
Susquehanna and New York Railroad Company
Susquehanna River and Western Railroad Company
The Tabor and Northern Railway Company
Tama and Toledo Railroad Company
Tampa and Gulf Coast Railroad Company
Tampa and Jacksonville Railway Company
Tampa Northern Railroad Company
Tampa Southern Railroad Company
Tavares and Gulf Railroad Company
Tennessee and Carolina Southern Railway Company
Tennessee and North Carolina Railway Company
Tennessee, Alabama and Georgia Railway
Tennessee Central Railway Company
Tennessee, Kentucky and Northern Railroad Company
Tennessee Railroad Company
Tennessee Western Railroad Company
Terminal Railroad Association of St. Louis
Terre Haute, Indianapolis and Eastern Traction Company
Texarkana and Forth Smith Railway Company
Texas and New Orleans Railroad Company
The Texas and Pacific Railway Company
Texas City Terminal Railway Company
The Texas Mexican Railway Company
Texas Midland Railroad
Texas, Oklahoma and Eastern Railroad Company

Texas Short Line Railway Company
Texas South-Eastern Railroad Company
Thornton and Alexandria Railway Company
The Toledo and Indiana Railroad Company
The Toledo and Western Railway Company
The Toledo, Angola and Western Railway Company
The Toledo, Bowling Green and Southern Traction Company
The Toledo, Fostoria and Findlay Railway Company
[fol. 62] The Toledo, Ottawa Beach and Northern Railway Company
Toledo, Peoria and Western Railway Company (Samuel M. Russell, Receiver)
Toledo, Saginaw and Muskegon Railway Company
The Toledo Terminal Railroad Company
The Toronto, Hamilton and Buffalo Navigation Company
The Toronto, Hamilton and Buffalo Railway Company
Tremont and Gulf Railway Company
The Trinity and Brazos Valley Railway Company (Jno. A. Hulen, Receiver)
Trinity Valley and Northern Railway Company
Trinity Valley Southern Railroad Company
The Ulster and Delaware Railroad Company
Union Pacific Railroad Company
The Union Point and White Plains Railroad Company
Valley and Siletz Railroad Company
Vicksburg, Shreveport and Pacific Railway Company
Virginia and Carolina Southern Railroad Company
The Virginian Railway Company
Virginia Southern Railroad Company
The Wabash, Chester and Western Railroad Company (J. Fred Gilster, Receiver)
Waco, Beaumont, Trinity and Sabine Railway Company
Wadley Southern Railway Company
Walla Walla Valley Railway Company
The Washington and Choctaw Railway Company
The Washington, Brandywine and Point Lookout Railroad Company
Washington, Idaho and Montana Railway Company
Waterloo, Cedar Falls and Northern Railway Company
Waverly, Sayre and Athens Traction Company
Waycross and Southern Railroad Company

Waycross and Western Railroad Company
Waynesburg and Washington Railroad Company
The Weatherford, Mineral Wells and Northwestern Railway Company
Wellington and Powellsville Railroad Company (J. A. Pretlow, Receiver)
Western Allegheny Railroad Company
Western Maryland Railway Company
The Western Ohio Railway Company
The Western Pacific Railroad Company
[fol. 63] West Shore Railroad Company (The New York Central Railroad Company, Lessee)
West Virginia Midland Railroad Company (George A. Hechmer, Receiver)
West Virginia Northern Railroad Company
Wharton and Northern Railroad Company
The Wheeling and Lake Erie Railway Company
White Sulphur Springs and Yellowstone Park Railway Company
The Wichita Falls and Northwestern Railway Company of Texas)
Wichita Falls and Southern Railroad Company
Wichita Falls, Ranger and Fort Worth Railroad Company (J. W. Mitchell, Receiver)
The Wichita Northwestern Railway Company (O. P. Byers, Receiver)
The Wichita Valley Railway Company
Wildwood and Delaware Bay Short Line Railroad Company
The Wilkes-Barre and Eastern Railroad Company
The Wilkes-Barre and Hazleton Railway Company
Winston-Salem Southbound Railway Company
Wisconsin and Michigan Railroad Company
The Woodworth and Louisiana Central Railway Company
The Yazoo and Mississippi Valley Railroad Company
The Youngstown and Northern Railroad Company
The Youngstown and Ohio River Railroad Company

[fol. 64] EXHIBIT NO. 4 TO BILL OF COMPLAINT

Order

At a General Session of the Interstate Commerce Commission Held at Its Office, in Washington, D. C., on the 4th Day of October, A. D. 1926

No. 16697

CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY et al.

v.

BALTIMORE & OHIO RAILROAD COMPANY et al.

Upon petition of defendants for reargument and reconsideration, and upon further consideration of the record in the above-entitled proceeding:

It is ordered, That said petition be, and it is hereby, denied.

By the commission:

George B. McGinty, Secretary. (Seal.)

[fol. 65] EXHIBIT NO. 5 TO BILL OF COMPLAINT

EASTION, Chairman, dissenting:

I am not persuaded that the conditions of which complaint is made in this case constitute a "practice" within the meaning of paragraph (6) or (11) of section 1 or paragraph (1) of section 15 of the interstate commerce act. Such an interpretation seems to me to be precluded by United States v. Pennsylvania Railroad Company, 242 U. S. 208, where it was held, in substance, that the word must be confined to matters which affect shippers as distinguished from matters which affect only carriers, that is, matters which confuse the relations between shippers and carriers, or burden transportation, or favor a large shipper and oppress a small one.

But assume that the contrary is true, and that we have here an issue over which we have jurisdiction. Whose "practice" is it which is attacked in this case? In dis-

cussing that question I shall refer only to the through traffic which moves on combination rates, for as to the traffic which moves on joint rates the real complaint seems to me to relate clearly to divisions and nothing else, and the divisions are not brought in issue.

The report of the majority is based on the theory that the "practice" attacked is a "practice" of the east-side defendant lines alone. I can find no solid foundation for this theory. It is true that the tariffs of the east-side lines contain a provision to the effect that where no joint rates are provided and the combinations are the same on St. Louis as on East St. Louis, through rates shall be made on the East St. Louis combination. But the west-side lines had precisely as much right to publish a provision in their tariffs that in such cases the through rates should be made on the St. Louis combinations. They did not do so, but allowed the tariffs of the east-side lines to prevail on this point. Why? Apparently because they feared the competition of the Chicago & Alton, which receives traffic from the east-side lines as a matter of necessity at East St. Louis.

It must be borne in mind that the west-side lines originate more of the through traffic than do the east-side lines. Potentially, from a traffic standpoint, they are more powerful factors in the situation than the east-side lines and in a [fols. 66 & 67] better position to impose their will. Why do they not do so, instead of turning to us for relief? Certainly not because of any inherent power which the eastern lines possess to dominate the situation by a "practice." The fair deduction is that the competition of the Chicago & Alton is the reason, and this deduction is supported by history. Through rates were made as they now are made, as I understand the record, beginning with the construction of the Chicago & Alton into East St. Louis in 1877, and long before the east-side lines extended their local East St. Louis rates across the river to St. Louis.

If the west-side lines are dissatisfied with existing conditions, let them withdraw from the "practice" attacked, provide in their tariffs for the "practice" which they desire, and refuse to absorb the charges of the Terminal Association on west-bound traffic. There would then be an

issue with which we probably should have to deal; but no such issue now exists and, as I see it, the "practice" in question is as much a "practice" of the west-side lines as it is of the east-side lines.

But even if there were here a "practice" of the east side lines alone, what evidence is there that it is unreasonable? The mere fact that reciprocal deliveries are quite common throughout the country does not prove it to be unreasonable. Yet that is practically the only evidence presented.

I am authorized to say that Commissioners Hall and Woodlock concur in this expression of dissent.

[fol. 68] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER SETTING CAUSE FOR HEARING—November 16, 1926

The undersigned, Judge of the District Court of the United States, in and for the Northern District of Illinois, the Eastern Division, having been advised that a bill in the above styled cause has been filed in the District Court of the United States, in and for the Northern District of Illinois, Eastern Division, wherein there is sought to have canceled, annulled, and set aside an order of the Interstate Commerce Commission, and wherein an injunction is sought to restrain the Interstate Commerce Commission from enforcing the said order, hereby calls to his assistance to hear and determine the application of the plaintiffs for the said injunction the Honorable Albert B. Anderson, Circuit Court Judge, and the Honorable James H. Wilkerson and Adam C. Cliffe, District Judge, for the purpose of hearing said application. And the undersigned District Judge hereby fixes Chicago, Illinois, and the 29th day of November, 1926, at 10 o'clock A. M., in the Federal Building at Chicago, Illinois, and in the Court Room usually occupied by the [fol. 69] undersigned, as the time and place for hearing said application.

It is further ordered, that a copy of this order be forwarded to each of the said Judges so designated and that

the Clerk of the District Court of the United States, Northern District of Illinois, Eastern Division, forward by mail notice of the fact, time, and place of the said hearing to the Secretary of the Interstate Commerce Commission, at Washington, D. C., and to the Attorney General of the United States, at Washington, D. C., as required by statute, which notice shall be accompanied by a copy of this order.

Witness my hand this 16th day of November, 1926.

James H. Wilkerson, Judge.

[fols. 70 & 71] In United States District Court

[Title omitted]

Answer of the United States—Filed November 20, 1926

United States of America, by its counsel, now comes and for answer to the bill of complaint filed herein against it says:

I, II, III. On information and belief defendant admits the allegations of paragraphs I, II and III.

IV. On information and belief defendant admits that the so-called West Side Lines, on or about February 5, 1925, filed the complaint with the Interstate Commerce Commission against the East Side Lines and, subject to verification, Exhibit E, attached to and made a part of the bill of complaint, is a true copy. Defendant neither admits nor denies the allegations of paragraph IV with respect to the contents of the complaint before the Commission but for greater certainty refers to the complaint in its entirety for the full and true contents thereof.

V. On information and belief defendant admits the allegations of paragraph V with this exception: defendant [fol. 72] has no knowledge of the contents of the answers filed by the several carriers who were defendants to the complaint before the Commission, it neither admits nor denies the allegations with respect thereto and if the same become material upon the hearing it will require strict proof thereof.

VI, VII, VIII. On information and belief defendant admits the allegations of paragraph VI, VII and VIII.

IX. On information and belief defendant admits the allegations of paragraph IX and, subject to verification, that Exhibit No. 5 is a true copy of the dissenting opinion of Commissioner Eastman concurred in by Commissioners Hall and Woodlock.

X, XI, XII, XIII, XIV, XV. Except as shown by the report of the Commission, Exhibit No. 1 to the bill of complaint, defendant has no knowledge of the matters and things alleged in paragraphs X, XI, XII, XIII, XIV and XV in manner and form as alleged and in so far as the same conflict with the facts found by the Commission in its report this defendant denies the same and each and every part of the same.

XVI. Defendant denies the allegations of paragraph XVI and each and every part of the same in manner and form as alleged. Specifically defendant denies the charges in sub-paragraph (3) that "there was no evidence before the Interstate Commerce Commission in said cause which would enable the Commission to determine whether such 'practice' was in any respect unreasonable or unjust, or would support or tend to support the finding * * * that such 'practice' was unjust and unreasonable." Specifically defendant denies the charges in sub-paragraphs (4) and (5) that the order of the Commission is without any evidence to support it and is arbitrary.

XVII. Defendant has no knowledge of the matters and things alleged in paragraph XVII in manner and form as alleged and if the same become material upon the hearing it will require strict proof thereof with this exception: defendant admits that for the nonobservance of any valid order of the Commission its officers will take appropriate [fol. 73] action to compel the observance thereof in accordance with the statute in such case made and provided.

Further answering, defendant alleges that the matters and things set forth in the bill of complaint and sought to be put in issue before the court were all before the Interstate Commerce Commission, were fully heard and determined by it, and were within its power and authority to hear and

determine under the provisions of the Interstate Commerce Act; in its report in writing with respect thereto, made after full hearing and on due notice to all of the parties, which states its conclusion together with its decision, order or requirement in the premises, the matters and things of which complaint is made were fully considered and foreclosed by findings of fact based on substantial evidence before the Commission of which the parties were advised.

Defendant alleges that the facts set forth in the report of the Commission and each and all of the same are true and correct.

Defendant specifically denies—

(a) Any fact or facts alleged in the bill of complaint, or any part of the same, which are inconsistent with any fact or facts found by the Commission.

(b) Any and all inferences of fact from any particular fact or facts alleged in the bill of complaint, or any part of the same, which seek to deny, or which are inconsistent with any fact or facts found by the Commission.

(c) Any fact or facts alleged in the bill of complaint, or any part of the same, which deny, or which seek to deny, any fact or facts found by the Commission.

(d) Any fact *of* facts alleged in the bill of complaint, or any part of the same, which set up, or which seek to set up, matters and things which were not before the Commission.

(e) Any fact or facts alleged in the bill of complaint, or any part of the same, which attack *of* which seek to attack [fol. 74] the action of the Commission, and to show facts other than what the Commission has found and reported.

(f) Any allegations in the bill of complaint, or any part of the same, which allege that facts were found by the Commission in its report and orders which, as shown on the face thereof, were not so found.

(g) Any conclusions of law alleged and insisted upon in the bill of complaint, or any part of the same, which are inconsistent with any conclusions of law held by the Interstate Commerce Commission.

(h) Each and every allegation in the bill of complaint contained not herein specifically admitted or denied.

Wherefore, having fully answered, defendant prays that the bill of complaint be dismissed at the cost of plaintiffs and for such other and further order as may be appropriate.

Blackburn Esterline, Assistant to the Solicitor General, United States Attorney.

[fols. 75 & 76] *Duly sworn to by Blackburn Esterline. Jurat omitted in printing.*

[File endorsement omitted.]

[fols. 77 & 78] IN UNITED STATES DISTRICT COURT

[Title omitted]

INTERVENTION OF INTERSTATE COMMERCE COMMISSION—Filed November 22, 1926

To the Honorable the Judges of said court:

In accordance with the provisions of section 212 of the Judicial Code, 36 Stat. L. 1150, we hereby enter the appearance of the Interstate Commerce Commission, as a party defendant, and of ourselves as its counsel, in the above-entitled suit.

P. J. Farrell, J. Stanley Payne.

[File endorsement omitted.]

[fol. 79] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF INTERSTATE COMMERCE COMMISSION—Filed November 22, 1926

The Interstate Commerce Commission, intervening defendant in the above-entitled suit, hereinafter called the

Commission, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of exception to the many errors and insufficiencies in the plaintiffs' bill of complaint contained, for answer thereunto, or unto so much or such parts thereof as it is advised that it is material for it to answer, answers and says:

[fol. 80] Answering Paragraphs I to III, inclusive, of the bill of complaint, the Commission admits, for the purposes of this suit, that the allegations therein contained are true.

Answering Paragraphs IV to XVII, inclusive, of the bill of complaint, the Commission admits and alleges that it made the report and order of July 12, 1926, referred to in Paragraph VI, in a proceeding then pending before it and numbered 16697 on the Commission's docket; that the order by its terms, as amended, is to become effective on December 11, 1926; that the complainants in said proceeding were The Chicago, Rock Island and Pacific Railway Company, the Missouri-Kansas-Texas Railroad Company, the Missouri Pacific Railroad Company, and the St. Louis-San Francisco Railway Company; that the plaintiffs herein were defendants in said proceeding; that the order was duly served upon said plaintiffs, and that the report and order are Exhibit 1 to the bill of complaint herein.

The Commission further admits and alleges that, prior to the making and serving of said report and order, as aforesaid, it accorded to the parties to said proceeding, including the plaintiffs herein, the full hearing provided for in the Interstate Commerce Act; that at said hearing a large volume of testimony and other evidence bearing upon the matters covered by said report and order was submitted to the Commission for consideration on behalf of said parties by their respective counsel; that at said hearing and subsequently, both orally and in briefs filed in said proceeding, questions relating to said matters were fully argued and submitted to the Commission for determination on behalf of said parties by their respective counsel, where-

[fol. 81] upon the Commission determined said matters and made and entered said report and order, which included the Commission's decisions, conclusions, orders, and requirements in the premises; that upon the evidence before it in said proceeding, and as shown in and by said report

and order, the Commission made the findings and stated the conclusions upon which said order is based.

The Commission further alleges that said findings and conclusions were and are, and that each of them was and is, fully supported and justified by the evidence before the Commission in said proceeding.

The Commission further alleges that in making said report and order, it considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance, and condition called to its attention on behalf of the parties to said proceeding by their respective counsel, including matters covered by the allegations of the bill of complaint herein.

The Commission further alleges that said order was not made or entered by it either arbitrarily, or unjustly, or contrary to the relevant evidence, or without evidence to support it; that in making said order the Commission did not exceed the authority which had been duly conferred upon it, or exercise that authority in an unreasonable manner, and the Commission denies each of and all the allegations to the contrary contained in said bill of complaint.

The Commission particularly denies the allegation in subdivision 4 of Paragraph XVI that the order of July 12 is without evidence to support it, and the allegation in sub-
[fol. 82] division 5 of said paragraph that the order is arbitrary, and also denies the allegations in Paragraph XVII to the effect that said order, if it is not annulled and set aside, will subject the plaintiffs to irreparable damage and injury.

Except as herein expressly admitted, the Commission denies the truth of each of and all the allegations contained in said bill of complaint, in so far as they conflict either with the allegations herein or with the statements or conclusions of fact included in said report and order of the Commission which are hereby referred to and made a part hereof.

All of which matters and things the Commission is ready to aver, maintain, and prove as this honorable court shall direct, and hereby prays that said bill of complaint be dismissed.

Interstate Commerce Commission, by P. J. Farrell,
J. Stanley Payne, Counsel.

[fols. 83 & 84] *Duly sworn to by Johnston B. Campbell. Jurat omitted in printing.*

[File endorsement omitted.]

[fol. 85] IN UNITED STATES DISTRICT COURT

[Title omitted]

INTERVENTION OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY, MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, MISSOURI PACIFIC RAILROAD COMPANY AND ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY—Filed NOV. 29, 1926

To the Honorable the Judges of said Court:

We hereby enter the appearance of The Chicago, Rock Island and Pacific Railway Company, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company and St. Louis-San Francisco Railway Company, as interveners, and of ourselves as their counsel in the above entitled suit.

W. F. Dickinson, Wallace T. Hughes, A. B. Enoch, C. S. Burg, H. H. Larimore, M. G. Roberts.

[fol. 86] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF INTERVENERS—Filed November 29, 1926

The above named interveners in the above-entitled suit reserving to themselves and to each of them all manner of benefit and advantage of exception to the many errors and insufficiencies in the bill of complaint, for answer thereunto, or unto so much or such parts thereof as they are advised that it is material for them to answer, say:

I

Interveners admit the allegations of Paragraphs I, II, and III of the complaint.

[fol. 87] II

Answering Paragraph IV, interveners admit the filing of the complaint before the Interstate Commerce Commission as attached to bill of complaint and marked Exhibit No. 3.

III

Interveners admit the allegations of Paragraphs V, VI, VII, VIII and IX.

IV

Answering Paragraph X of the complaint, interveners admit plaintiffs are common carriers by railroad subject to the Interstate Commerce Act, and as such, participate in westbound traffic through East St. Louis, Illinois, and St. Louis, Missouri. That the order of the Interstate Commerce Commission, hereinafter called the "Commission," applies to westbound traffic, but interveners allege that the order of the Commission referred to in bill of complaint applies only to traffic where the same moves on combination rates which are the same on St. Louis as East St. Louis, and interveners deny that the question of plaintiffs' rates to East St. Louis is in issue as set out and pleaded in said Paragraph X.

V

Answering Paragraph XI, interveners deny that since 1887 they have voluntarily published and applied to and from East St. Louis rates the same as to and from St. Louis as to westbound traffic passing through said points, but allege that for many years last past interveners have paid and born- the charges of the Terminal Railroad Association of St. Louis on both eastbound and westbound through traffic passing through St. Louis, Missouri, and East St. Louis, Illinois, because forced so to do account the arbitrary action of said Terminal Railroad Association of St. Louis which these plaintiffs through stock ownership control.

[fol. 88]

VI

Answering Paragraph XII, interveners deny that if the payment by west side lines of the transfer charges on both eastbound and westbound through traffic at St. Louis, Missouri, and East St. Louis, Illinois, be not a practice as pleaded in said Paragraph XII, that the Commission is without power to make the order complained of. Interveners also deny that the Commission has misconceived the meaning of the word "practice" as contained in the Interstate Commerce Act, and deny that said order is based upon a mistake of law. Deny the same as null and void, and deny that the order complained of is beyond the power of the Commission to make.

VII

Answering Paragraph XIII, the interveners allege that the question of the reasonableness of the transfer charge applicable on westbound traffic crossing the Mississippi River at St. Louis, Missouri, and East St. Louis, Illinois, is not in issue, or the apportionment of those charges. That plaintiffs having voluntarily extended their lines to St. Louis, Missouri, through use of the rails of the Terminal Railroad Association of St. Louis, are required by the order to deliver westbound through traffic to interveners at the end of plaintiffs' rails in St. Louis, Missouri.

VIII

Answering Paragraph XIV, interveners state that the allegations thereof are not material to this inquiry or controversy.

IX

Answering Paragraph XV, interveners allege that the question of whether the rates of plaintiffs apply up to East St. Louis should be reduced, is not in issue. That plaintiffs have through their subsidiary, the Terminal Railroad Association of St. Louis, voluntarily extended their rails [fol. 89] to St. Louis, Missouri, and that the order of the Commission only covers transfer charges on traffic westbound through St. Louis and East St. Louis on which rates

are combination rates which are the same on St. Louis as on East St. Louis.

X

Interveners deny the allegations of Paragraph XVI.

XI

Answering Paragraph XVII, interveners deny that plaintiffs will suffer great and irreparable damage and injury to them and each of them. Deny that plaintiffs are entitled to the relief sought, or any part thereof. Deny that complainants are entitled to any relief and pray that Bill of Complaint be dismissed.

W. F. Dickinson, Wallace T. Hughes, A. B. Enoch, C. S. Burg, H. H. Larimore, M. G. Roberts, Counsel for Interveners.

[fols. 90 & 91] *Duly sworn to by Arthur Mackenzie. Jurat omitted in printing.*

[File endorsement omitted.]

[fols. 92 & 93] In United States District Court

[Title omitted]

Order Dismissing Bill of Complaint—December 8, 1926

This day again come the parties to this suit by their attorneys respectively and the Court being now fully advised in the premises it is ordered that the bill of complaint filed in said cause be and the same is hereby dismissed for want of equity.

[fol. 94] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR APPEAL—Filed February 5, 1927

To the Honorable the Judges of the District Court of the United States in and for the Eastern Division of the Northern District of Illinois:

Now come The Baltimore and Ohio Railroad Company, William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, Illinois Traction, Inc., Illinois Central Railroad Company, Litchfield and Madison Railway Company, Louisville and Nashville Railroad Company, Mobile and Ohio Railroad Company, The New York, Chicago and St. Louis Railroad Company, The Pennsylvania Railroad Company, Southern Railroad Company, Wabash Railway Company, plaintiffs in the above entitled cause, by their attorneys, and feeling themselves aggrieved by the order, judgment and decree of this Court entered on the 8th day of December, 1926 herein, hereby pray that an appeal may be allowed to these plaintiffs from said order, judgment and decree to the Supreme Court of the United States, and in connection with this petition, petitioners herewith present their assignment of errors.

Wherefore, Said plaintiffs pray that this appeal may be allowed, and that a transcript of the record, proceedings [fols. 95 & 96] and papers upon which said decree and order was made, duly authenticated, may be sent to the Supreme Court of the United States.

The Baltimore and Ohio Railroad Company, William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, Illinois Traction, Inc., Illinois Central Railroad Company, Litchfield and Madison Railway Company, Louisville and Nashville Railroad Company, Mobile and Ohio Railroad Company,

The New York, Chicago and St. Louis Railroad Company, The Pennsylvania Railroad Company, Southern Railroad Company, Wabash Railway Company, by Morison R. Waite, Charles J. Rixey, Elmer A. Smith, W. A. Northcutt, W. J. Stevenson, Guernsey Orcutt, Homer T. Dick, Silas H. Strawn and Frank H. Towner, L. H. Strasser, D. P. Connell, Their Solicitors.

[fol. 97] In United States District Court

[Title omitted]

Assignments of Error—Filed February 5, 1927

The plaintiffs, The Baltimore and Ohio Railroad Company, William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, Illinois Traction, Inc., Illinois Central Railroad Company, Litchfield and Madison Railway Company, Louisville and Nashville Railroad Company, Mobile and Ohio Railroad Company, The New York, Chicago and St. Louis Railroad Company, The Pennsylvania Railroad Company, Southern Railroad Company, Wabash Railway Company, in connection with their petition for an appeal, say that the order and decree in this Court entered December 8th, 1926 is erroneous and to the prejudice of the plaintiffs severally in the following particulars, that is, to-wit:

1. In that the Court dismissed the bill of the plaintiffs.

2. In that the Court failed to find that the order of the Interstate Commerce Commission in the proceeding before it, in its Docket No. 16697, bearing date July 12th, 1926, is without any substantial evidence to support it.

3. In that the Court failed to find that said order of the Interstate Commerce Commission in its said Docket No. 16697 was arbitrary.

4. In that the Court erred in failing to find that that [fol. 98] which is declared by the Interstate Commerce Com-

mission in its report and order in its Docket No. 16697 as constituting a "practice," is not a "practice" within the meaning of that word as used in the Interstate Commerce Act.

5. In that the Court failed to find that the Interstate Commerce Commission had no power under the sections of the Interstate Commerce Act referred to in its said report in Docket 16697 to make the said order.

6. In that the Court failed to find that the controversy in its said Docket 16697 was one involving rates and divisions of through rates, and not one involving a "practice" within the meaning of that word as used in the Interstate Commerce Act.

7. In that the Court failed to find that the Interstate Commerce Commission had no substantial evidence before it to support its order changing rates and divisions of through rates.

8. In that the Court failed to find that the order of the Commission was in contravention of the provisions of the Interstate Commerce Act, because said Commission disregarded the various elements which it is required to consider in a case involving rates and divisions.

9. In that the Court failed to find that said Interstate Commerce Commission had no substantial evidence before it to support its finding that the "practice," if what it condemned was a "practice" within the meaning of that word as used in the Interstate Commerce Act, was unjust and unreasonable.

10. In that the Court failed to find that that which the Interstate Commerce Commission condemned as a "practice" was a "practice" for which the west side lines and not the east side lines were responsible.

11. In that the Court failed to find that the said order of the Interstate Commerce Commission was based upon an erroneous construction of the Interstate Commerce Act, and deprives the plaintiffs herein of their property without due process of law, and is in contravention of the Constitution [fols. 99-100] of the United States, particularly the fifth amendment thereto.

12. In that the court failed to enter a decree enjoining, setting aside, annulling and suspending the order of the Interstate Commerce Commission in the proceeding before it in its Docket No. 16697 bearing date of July 12, 1926, and permanently enjoining the enforcement of the said order.

Wherefore, these plaintiffs pray that said decree be reversed, and that said Court be ordered to enter a decree reversing its decision in said cause, and granting to these plaintiffs a decree enjoining, setting aside, annulling and suspending the said order of the Interstate Commerce Commission in its said Docket No. 16697 and permanently enjoining the enforcement of the said order.

Elmer A. Smith, Charles J. Rixey, Morison R. Waite, W. A. Northcutt, W. J. Stevenson, Guernsey Orcutt, Homer T. Dick, Silas H. Strawn and Frank H. Towner, L. H. Strasser, D. P. Connell, Solicitors for Plaintiffs.

[fols. 101 & 102] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER ALLOWING APPEAL—February 5, 1927

This day came the plaintiffs, The Baltimore and Ohio Railroad Company, William W. Wheelock and William G. Bierd, Receivers of the Chicago and Alton Railroad Company, Chicago and Eastern Illinois Railway Company, The Cleveland, Cincinnati, Chicago and St. Louis Railway Company, Illinois Traction, Inc., Illinois Central Railroad Company, Litchfield and Madison Railway Company, Louisville and Nashville Railroad Company, Mobile and Ohio Railroad Company, The New York, Chicago and St. Louis Railroad Company, The Pennsylvania Railroad Company, Southern Railroad Company, Wabash Railway Company, and presented their petition for an appeal and an assignment of errors accompanying the same, upon consideration of which the Court allows an appeal to the Supreme Court of the United States from the order and decree of this

Court entered herein December 8th, 1926, and direct that a certified transcript of the record, testimony, exhibits, stipulations and all proceedings be transmitted to the said Supreme Court of the United States upon the filing of a bond in the sum of Five Hundred 00/100 ($500.00) Dollars.

Albert B. Anderson, Circuit Judge, James H. Wilkerson, District Judge, Adam C. Cliffe, District Judge, Judges in a Special Court in the District Court of the United States for the Northern District of Illinois.

Chicago, Illinois, February 5, 1927.

[fols. 103-109] Bond on Appeal for $500.00; approved and filed February 5, 1927, omitted in printing.

[fol. 110] In United States District Court

[Title omitted]

Stipulation re Statement of Evidence—Filed June 23, 1927

It is hereby stipulated by the parties, including the intervening defendants, acting by their respective counsel, for the purpose of settling the record for the appeal to the Supreme Court of the United States, that:

1. The within and foregoing statement of evidence is a true and correct transcript of the stipulations and statements of counsel made at the trial of said case, and contains a correct transcript in narrative form of all the oral testimony of the witnesses, introduced at hearings before the Interstate Commerce Commission in the proceeding styled Chicago, Rock Island & Pacific Railway Company, et al. vs. The Baltimore and Ohio Railroad Company, et al. Docket No. 16697, as the same is contained in the official typewritten transcript thereof on file with the Commission, a copy of which, duly certified by the Commission, was offered in evidence by the Complainants in the District Court in the above entitled cause, which with the exhibits referred to

therein was all the evidence offered by any of the parties on said trial in said District Court.

2. The said narrative of the oral testimony shall be substituted for the original oral testimony of the witnesses so certified by the Interstate Commerce Commission offered in evidence as aforesaid, and shall have the same force and effect on the appeal as the original testimony.

[fol. 111] 3. The exhibits contained in the transcript so certified by the Commission shall stand as the original exhibits, and shall be transmitted on appeal instead of a transcript thereof; and the original of said statement of evidence, together with this stipulation and the order of court pursuant hereto, shall be likewise so transmitted.

June 4, 1927.

Elmer A. Smith, Homer T. Dick, Charles J. Rixey, Morrison R. Waite, Solicitors for Plaintiffs. Blackburn Esterline, Assistant to the Solicitor General, for the United States of America. J. Stanley Payne, Solicitor for the Interstate Commerce Commission. M. G. Roberts, Wallace T. Hughes, H. H. Larimore, C. S. Burg, Solicitors for the Intervening Defendant Railroad Companies.

June 4, 1927.

[File endorsement omitted.]

[fol. 112] In United States District Court

[Title omitted]

Statement of Evidence—Filed June 23, 1927

This cause came on for hearing on November 29th, 1926 before Honorable Albert B. Anderson, Circuit Court Judge, and the Honorable James H. Wilkerson and Adam C. Cliffe, District Judges. The plaintiffs were represented by their solicitors, Homer T. Dick, E. A. Smith and Morison R. Waite. The defendant by Blackburn Esterline, Assistant to the Solicitor General of the United States. The intervenor, the Interstate Commerce Commission by J. Stanley

Payne, its counsel, and the intervenors, The Chicago, Rock Island & Pacific Ry. Co., Missouri, Kansas, Texas Railroad Co., Missouri Pacific Railroad Co., and the St. Louis-San Francisco Ry. Co., by M. G. Roberts, their counsel.

Thereupon it was admitted by the Interstate Commerce Commission through its counsel, that there was a dissenting opinion filed in Docket 16697 of the Interstate Commerce Commission, of which Exhibit 5 to the bill of complaint is a copy; that Exhibit 3 to the bill of complaint is a copy of the petition in said Docket 16697 of the Interstate Commerce Commission, and that Exhibit 4 to the bill of complaint is a copy of the order in Docket 16697 of the Interstate Commerce Commission denying the petition of the defendants for a re-hearing.

It was further stipulated by all the parties, plaintiffs and intervenors, that the cause be submitted on final hearing on the pleadings in the cause, and the certified copy of the transcript of the evidence before the Interstate Com-[fol. 113] merce Commission in its said Docket 16697.

Thereupon the plaintiffs offered in evidence the certified copy of the transcript of the evidence and the exhibits offered in evidence before the Interstate Commerce Commission in said Docket 16697, of which transcript and exhibits the following is a condensed statement in narrative form.

[fol. 114] Before the Interstate Commerce Commission

Docket No. 16687

The Chicago, Rock Island & Pacific Railway Company et al., Complainants,

v.

The Baltimore & Ohio Railroad Company et al., Defendants

Before W. A. Disque, Attorney, Examiner

Appearances of Counsel

St. Louis, Mo., Sept. 21, 1925.

Appearances: Wallace T. Hughes for Chicago, Rock Island & Pacific Railway Company; M. G. Roberts for St.

Louis-San Francisco Railway Company; C. S. Burg for Missouri-Kansas-Texas Railroad Company; H. H. Larimore for Missouri Pacific Railroad Company; Homer T. Dick for Chicago & Eastern Illinois Railway Company; Guernsey Orcutt for the Pennsylvania Railroad System; L. H. Strasser for Wabash Railway Company; H. L. Walker for Southern Railway System Lines; Herbert S. Harr for Baltimore & Ohio Railroad Company.

[fol. 114½] FRANK G. JONAH, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am Chief Engineer, St. Louis-San Francisco Railway Company, St. Louis.

Exhibit No. 1 is a map, scale one inch equals one-half mile, showing the cities of St. Louis, East St. Louis, Madison, Granite City, and adjacent territory, and shows the lines of all steam railways entering St. Louis and East St. Louis, and colored in red are the lines controlled by the Terminal Railroad Association of St. Louis. The blue line on the map shows the line of the Alton & Southern Railroad.

(Said map was thereupon received in evidence, marked "Complainants' Exhibit No. 1, Witness Jonah.")

[fol. 115] The map shows the location of bridges over the Mississippi River at St. Louis. The map also shows the location of the Union Station, and the various freight yards in St. Louis and East St. Louis.

The Terminal Railroad Association of St. Louis is a terminal transfer and switching company with facilities on both sides of the Mississippi River connected by two bridges. It is a cooperative enterprise, and the stock is held in equal proportion by the following fifteen trunk lines: Baltimore & Ohio Railroad; Cleveland, Cincinnati, Chicago & St. Louis Railway; Missouri Pacific Railroad; St. Louis-Iron Mountain & Southern Railway; Louisville & Nashville Railroad; Wabash Railway; Chicago & Alton Railroad; St. Louis-San Francisco Railway; Pittsburgh,

Cincinnati, Chicago & St. Louis Railroad; Chicago, Rock Island & Pacific Railway; Southern Railway; Illinois Cen-
[fol. 116] tral Railroad; Missouri-Kansas-Texas Railroad; Chicago, Burlington & Quincy Railroad; St. Louis-Southwestern Railway.

The following lines are not members of the Association: Mobile & Ohio Railroad; Chicago & Eastern Illinois Railroad; Toledo, St. Louis & Western Railway; Alton & Southern Railroad; St. Louis, Troy & Eastern Railroad; St. Louis & O'Fallon Railway; Litchfield & Madison Railway; Chicago, Peoria & St. Louis Railroad; Manufacturers Railway; East St. Louis & Suburban Railway; Illinois Traction System, and St. Louis & Ohio River Railroad.

The Terminal Railroad Association is composed of over twenty subsidiaries, which are grouped into three operating companies, namely: Terminal Railroad, Eads Bridge Route, St. Louis Merchants Bridge Terminal Railway, and the Wiggins Ferry Company.

Although there are three operating companies, the facilities are used interchangeably to a certain extent.

The Terminal Railroad Association furnishes the Union Passenger Station, and, with the St. Louis Merchants Bridge Terminal, furnishes passenger train routes for all railroads. It also handles freight between railroads in the Mill Creek Valley and East St. Louis via the Eads Bridge, using the large central clearing yard near Relay Depot and yards tracks in St. Louis. It also has an L. C. L. freight station in the Mill Creek Valley for all lines and serves the Cupples Station.

The St. Louis Merchants Bridge Terminal Railway operates the Illinois Transfer Railway—East St. Louis Outer Belt—which extends around East St. Louis from the Merchants bridge to Valley Junction, lines to Madison and Granite City, a river front line in St. Louis partly elevated from the Mill Creek Valley to North St. Louis and an outer belt north and west of St. Louis. It has the large central clearing yard known as Madison Yard on the east side and several smaller yards on the west side. It handles the freight between railroads and industries on both sides of the river.

[fol. 117] This map introduced as Exhibit No. 1 is accurate.

Exhibit No. 2 is a map on a scale of 500 feet to the inch, showing the location of freight houses and railway yards in St. Louis and East St. Louis. It also shows the location of the various bridges over the Mississippi River, and shows the location also of freight sheds and freight terminals in St. Louis which are owned by railways operating east of the Mississippi River. Access to the facilities on the west side of the River owned by these various railways operating on the east side of the River is had through the tracks of the Terminal Railroad Association.

(Said map was thereupon received in evidence, marked "Complainants' Exhibit No. 2, Witness Jonah.")

The map also shows the off-track warehouses of the various transfer companies which transfer l. c. l. freight between the terminals on the east side of the River and the terminals on the west side of the River by teams and motor trucks, their warehouses being buildings in which l. c. l. freight is assembled for delivery to various roads on either side of the River.

To illustrate the marks on this map, No. 1 shows the location of freight house facilities used by the C. & E. I. Railway in St. Louis, on Broadway and Biddle Street. That is the property of the Rock Island-Frisco Terminal, which is used by the C. & E. I. No. 3 shows the location of a freight house and team track near Collins and Dickson Streets in St. Louis, owned by the Louisville & Nashville Railroad. There is a legend on the map that explains the location of the different freight houses and who their ownership is. This map is correct. The freight stations and team tracks designated in this map in St. Louis, in color are the facilities of the east side lines. There are other freight houses and yards in St. Louis, of course, belonging to the west side lines.

[fol. 118] Exhibit No. 3 is a map showing the extent of the lines of the Alton & Southern Railroad, which is an outer belt line in East St. Louis, and performs switching interchange between the various railroads which it intersects on the east side of the Mississippi River. The map shows the portion of the line under construction between the present connecting point with the Illinois Traction System and the Litchfield & Madison Railway to a connec-

tion with the Wabash, C. & E. I. and Big Four, and C. & A. at or near Mitchell; that portion of their line is now under construction and will be in operation within the next two or three months. This switching line interchanges traffic between the lines reaching East St. Louis.

(Said map was thereupon received in evidence, marked "Complainants' Exhibit No. 3, Witness Jonah.")

In the year 1922, I was a member of a committee which made a report to Mr. Melville Wilkinson, Chairman of the Terminal Committee of the Chamber of Commerce of St. Louis, Missouri. I was chairman of an engineers' committee that made a study of the existing transportation facilities in the St. Louis-East St. Louis industrial district and made a report on that condition and suggested certain improvements. That report was made to the Chamber of Commerce and was printed and published.

The members of the engineers' committee which made that report to Mr. Wilkinson, and their official connections were: Harlan Barthomomew, Engineer of the City Plan Commission of St. Louis; P. W. Coyle, Traffic Commissioner, St. Louis Chamber of Commerce; E. A. Hadley, Chief Engineer, Missouri Pacific Railroad Company; J. B. Hundley, engineer bridges and structures, C. C. C. & St. L. Railway Company, (one of the east side lines and one of the defendants in this case); R. D. Saugster, Industrial Commissioner of the St. Louis Chamber of Commerce; C. E. [fol. 119] Smith, consulting engineer for the City of St. Louis; F. J. Stimson, Chief Engineer, Maintenance of Way, Southwestern Region, Pennsylvania Lines, (one of the defendants in this case and one of the east side lines); B. O. Thomas, Consulting Engineering for the East St. Louis Chamber of Commerce; F. G. Jonah, Chairman of the Committee, Chief Engineer of the St. Louis-San Francisco Railway Company; Charles H. Diehl, Secretary of the Committee, and formerly Secretary of the Municipal Development Bureau of the St. Louis Chamber of Commerce.

The Committee was organized in July, 1920, and rendered its report March 22, 1922. In the course of the preparation of that report and the gathering of data, officials of lines other than those mentioned were consulted. The Com-

mittee, at an early meeting, formulated a questionnaire regarding the data that it was necessary to have for the intelligent study and preparation of the report. That questionnaire was sent to every railroad running into St. Louis, and it was answered and the engineers of the various railway companies furnished the committee with plats showing their tracks and properties in St. Louis and East St. Louis. The engineers of other lines were asked to meet with the Committee, and did meet, on various occasions, at which the Committee outlined the province of its work and the plans it had in contemplation for an improvement of the terminal situation.

Exhibit No. 4 shows extracts from the printed report of the engineers' committee, dated March 22, 1922. It is to Melville Wilkinson, Chairman of the Terminal Committee of the Chamber of Commerce of the City of St. Louis. This Exhibit No. 4 contains chapters of the Engineers' report dealing with, first, a description of the St. Louis and East St. Louis industrial district; second, a history of railway development in St. Louis; third, a description of [fol. 120] the unification of terminals; fourth, a description of the bridges crossing the Mississippi River at St. Louis; fifth, a description of the handling of the passenger train movements in the St. Louis-East St. Louis terminal; sixth, a description of the movement of carload freight through the terminals of St. Louis and East St. Louis; seventh, a description of the handling of less-than-carload freight through the St. Louis terminals. This exhibit describes in detail the interchange of traffic between all carriers entering the St. Louis-East St. Louis district. There are subheads under each and every railroad operating in the terminal and the description of just how its business is handled. The facts set forth in this report are correct, because when the Committee made its report it interrogated the superintendent and local agents of every line in St. Louis and East St. Louis and ascertain from them just exactly how their business was handled in the terminal. This report was unanimously adopted and signed by the members of the committee which I heretofore mentioned. (Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. -, Witness Jonah.")

This Exhibit No. 4 contains merely extracts from the printed report of the engineers' committee and does not contain the full report. All of the information shown in this exhibit is taken from that report which was made in 1922, and does not necessarily represent the present conditions. I do not know of any material changes in the physical lay-out of the St. Louis-East St. Louis terminal since that time.

[fol. 121] Cross examination:

The Chicago and Eastern Illinois use the freight house and appurtenant facilities of the Rock-Island-Frisco Terminal Company on the west side of the River in the City of St. Louis as a tenant. I believe this arrangement was commenced at a time when the Frisco had control of the Chicago and Eastern Illinois, which was about 1902 up to about 1913.

The Pennsylvania freight house, indicated by Circular No. 4 on complainant's Exhibit 2, is not operated or used as a freight house by the Pennsylvania, but it was for many years. I am not prepared to say whether it is now used by the Illinois Central or any one as a freight house.

[fol. 122] H. W. Press, called as a witness on behalf of the complainants, having been first duly sworn, testified as follows:

Direct examination:

I am Assistant Comptroller of the St. Louis-San Francisco Railway Company, St. Louis, Missouri.

I was requested and did make an investigation to determine what trackage rights and terminals and stations the east side lines had at St. Louis, Missouri. I examined the annual reports of the different east side carriers involved in this case; also the Official Railway Guide with respect to the lines of those carriers extending into St. Louis, Missouri. All of the information in the Railway Guide with respect to railroad timetables, maps, etc., and the officials of the

carriers, was furnished by the carriers to the publishers of the Official Railway Guide.

With respect to the line of the Pennsylvania Railroad Company extending into St. Louis, the annual report of that Company to its stockholders for the year 1923 shows, on Page 37, the following information concerning mileage operated under the head of, "Lines used under trackage rights:"

Merchants Bridge & Terminal—Willows, Ill. to St. Louis, Missouri, 11.00 miles as of December 31, 1923.

Also, Terminal Railroad Association of St. Louis in St. Louis, No., 3.67 miles as of December 31, 1923.

On Page 66 of the same report appears this statement:

"The transportation companies in the Pennsylvania Railroad System owned, leased, controlled, or operated under contract, are located in the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Kentucky, Ohio, Illinois, Indiana, Michigan, Missouri, and the District of Columbia."

[fol. 123] The map of the Pennsylvania Railroad appearing on pages 320 and 321 of the Official Guide of the Railways and Steam Navigation Lines of the United States for April, 1925, shows the line of the Pennsylvania extending into St. Louis, Missouri. The index to stations on page 330 of the Official Railway Guide for April, 1925, shows St. Louis, Missouri, as a station located on the line of the Pennsylvania Railroad. The timetables Numbers 3, 12, 180, 185, 209, 222, 228 and 233, appearing respectively on pages 334, 340, 396, 397, 399, 402, 403, and 404 of the April, 1925, Official Guide show that the Pennsylvania Railroad passenger trains westbound have destination at St. Louis and start from St. Louis eastbound. Practically the same information can be found in any Official Guide either prior or subsequent to April, 1925.

As to the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, the annual report of the Board of Directors of the C. C. C. & St. L. Railway Company to the stockholders for the year ended December 31, 1923, shows, on Page 29, under the general heading of, "Table of Tracks," and the sub-heading of, "Lines operated under trackage

rights," the following information concerning operation of tracks into St. Louis, Missouri:

"Terminal Railroad Association of St. Louis—Granite City to State Line, Ill., 3.02 miles first main track and 3.02 miles second main track, a total of 6.04 miles of track—State Line to St. Louis, Mo., 6.13 miles of first main track and 6.13 miles of second main track, a total of 12.26 miles of track—East St. Louis to State Line, Ill., .90 miles of first main track and .90 miles of second main track, a total of 1.80 miles of track—State Line to St. Louis, Mo., 2.55 miles of first main track and 2.55 miles of second main track, a total of 5.10 miles of track."

The map of the Big Four appearing on page 215 of the Official Railway Guide for April, 1925, shows the line of [fol. 124] the Big Four Railway as extending into St. Louis, Missouri. The index to stations on page 164 of the Official Railway Guide for April, 1925, shows St. Louis, Missouri, as a station located on the line of the Big Four Railroad. The time tables, Numbers 141, 147, and 150, appearing on pages 221, 222, and 223 respectively, of the same guide show that Big Four trains west bound have destination at St. Louis and start from St. Louis eastbound. On Page 217 of the Official Guide for April, 1925, seven points of superiority of New York Central-Big Four trains are featured, number six of the Group reading as follows: "Convenient connections eastbound and westbound with all southwestern railroads at St. Louis."

The Baltimore & Ohio Railroad Company: The line of the Baltimore & Ohio Railroad Company extends into St. Louis, Missouri as indicated by the map of that road appearing on pages 406 and 407 of the Official Railway Guide for April, 1925. St. Louis, Missouri, also appears as a station on the Baltimore & Ohio Railroad as shown on page 412 of the Railway Guide for April, 1925. Baltimore & Ohio Railroad time tables, appearing on pages 423, 432, and 433 of the April Guide, show that westbound passenger trains terminate at St. Louis and that eastbound trains start from St. Louis.

The Chicago & Eastern Illinois Railroad Company's annual report to its stockholders for the year ended December 31, 1923, shows under lines operated (not main-

tained) on page 39, the following entry: "Granite City, Illinois, to St. Louis, Missouri (via Merchants Bridge) 8.90 miles of first main track and 8.90 miles of second main track, a total of 17.80 miles of track."

The map of the Chicago & Eastern Illinois Railroad, both in the annual report and in the Railway Guide, shows their line extending into St. Louis, Missouri. (Railway Guide for April, 1925, page 750.)

[fol. 125] The time table on page 754 of the Official Railway Guide for April, 1925, shows Chicago & Eastern Illinois Railroad westbound trains as having destination at St. Louis and east bound trains as having point of origin at St. Louis.

The New York, Chicago & St. Louis Railroad Company—Nickel Plate Road: Page 241 of the Official Railway Guide for April 1925 shows westbound trains of the Clover Leaf District of the N. Y. C. & St. L. Railroad as having destination at St. Louis and eastbound trains as starting from St. Louis. Under the heading of "Connections" on page 241 of the Guide it is stated that the Nickel Plate Road has connections at St. Louis with railroad diverging.

The Illinois Central Railroad Company: On maps of the Illinois Central Railroad given in the annual report to its stockholders for the year ended December 31, 1923, and on pages 608 and 609 of the Official Railway Guide for April 1925 the line of that road is shown as extending into St. Louis, Missouri

St. Louis, Missouri, is shown as a station on the Illinois Central Railroad on page 613 of the Railroad Guide for April 1925.

The Illinois Central Railroad time tables appearing on pages 616, 618, 620, and 621 of the Railway Guide for April 1925 show that Illinois Central Railroad passenger trains run into St. Louis and start from St. Louis.

With respect to mileage operated, the annual report of the Illinois Central Railroad for the year 1923 shows under the heading of "Lines Operated under trackage rights" on page 15 the following entry: "Terminal Railroad Association of St. Louis—Bridge Jct., Illinois, to St. Louis, Missouri, 4.10 miles of first main track and 3.13 miles of second main track."

Louisville & Nashville Railroad Company: The Louisville & Nashville map on pages 508 and 509 of the Official

Railroad Guide for April, 1925, shows that line as extending into St. Louis, Missouri. The time table on page 517 [fol. 126] of the Railway Guide shows Louisville & Nashville Railroad passenger trains running into St. Louis and starting from St. Louis.

The Southern Railway Company: The Southern Railway Company in its annual report to its stockholders for the year ended December 31, 1923, shows under "Trackage Rights" on page 40 the following entry: "Terminal Railroad Association of St. Louis—St. Louis, Mo. to Broadway, East St. Louis, Illinois, 3.28 miles."

The map of the Southern Railway Company both in its annual report and in the Official Railway Guide for April, 1925, pages 462 and 463, shows the line of the Southern Railway extending into St. Louis, Missouri.

The list of stations appearing on page 469 of the Railway Guide for April, 1925, shows St. Louis, Mo., as a station on the line of the Southern Railway Company.

Time table 98 on page 492 of the Railway Guide for April, 1925, shows Southern Railway passenger trains north and westbound as terminating at St. Louis and south and eastbound trains as starting from St. Louis.

The Mobile & Ohio Railroad Company: The Mobile & Ohio Railroad Company has trackage into St. Louis, Missouri, as indicated by the mileage table on page 25 of Mobile & Ohio Railroad Company annual report to its stockholders for the year 1923. An entry on that page under the heading of "Lines operated under trackage rights" reads as follows: "Terminal Railroad Association of St. Louis—East St. Louis, Ill., (Relay Passenger Station) to St. Louis, Missouri, (Union Station) 3.84 miles."

That the line of the Mobile & Ohio Railroad extends into St. Louis is also shown by the map of that line appearing in its annual report and also on page 496 of the official Railway Guide for April, 1925.

The Mobile & Ohio time table on page 498 of the Guide shows Mobile & Ohio Passenger trains northbound as [fol. 127] terminating at St. Louis and southbound trains as starting from St. Louis. (30).

The Chicago & Alton Railroad Company: The Chicago & Alton Railroad has trackage into St. Louis from east of the Mississippi over the St. Louis Merchants Bridge Terminal Railroad and the Terminal Railroad Association of St.

Louis, as indicated by the statistics under the head of "Trackage" on page 28 of its annual report for the year 1923, reading as follows:

"St. Louis Merchants Bridge Terminal R. R.—Granite City, Ill. to Union Station, St. Louis, Mo. 8.91 miles first main track and 8.91 miles second main track, a total of 17.82 miles of track.

"Terminal Railroad Association of St. Louis—Bridge Junction, Ill. to Union Depot, St. Louis, Mo. 3.95 miles first main track and 3.95 second main track, a total of 7.90 miles of track."

The general index of railroad stations on the railroads of the United States in the Official Guide for April, 1925, shows on page 1573 the following railroads listed under St. Louis, Missouri:

Baltimore & Ohio; Burlington Route; Chicago & Alton; Chicago & Eastern Illinois; Chicago Rock Island & Pacific; Cleveland, Cincinnati, Chicago & St. Louis; East St. Louis & Suburban; East St. Louis, Columbia & Waterloo; Frisco Lines; Illinois Central; Illinois Traction; Louisville & Nashville; Louisville, Henderson & St. Louis; Missouri-Kansas-Texas; Missouri Pacific; Mobile & Ohio; New York, Chicago & St. Louis; Pennsylvania; St. Louis Merchants Bridge Terminal; St. Louis Southwestern; Southern; Terminal Association of St. Louis, and the Wabash.

Cross-examination

I do not know whether passenger service is involved in this case. There is other information shown in the official Railway Guide than that having to do with passenger traffic. I do not wish the Inter-state Commerce Commission to indulge in the assumption that freight traffic is delivered at the passenger terminal, for instance of the Pennsylvania Railroad in St. Louis.

B. H. Strange, called as a witness on behalf of the com- [fol. 128] plainants, having been first duly sworn, testified as follows:

Direct examination:

I am Assistant Freight Traffic Manager, St. Louis-San Francisco Railway, St. Louis, Missouri. I have been con-

nected with the Frisco Railway for thirty years, and have been familiar with the St. Louis-East St. Louis industrial district for the last twenty-five years.

We are here asking that an order be issued requiring the eastern carriers to interchange their westbound traffic carloads and less with the western lines at St. Louis, Missouri, the end of their rails—a station on their line.

In the early seventies, all the traffic between the east and west side crossed the river by ferry.

The Eads Bridge was completed on July 4, 1874. It was built and owned by the Illinois & St. Louis Bridge Company.

The Union Depot Company was formed to build and operate a union depot in St. Louis. These facilities were not owned, operated, or controlled by any of the carriers having rails in St. Louis or East St. Louis. They were individual companies. On traffic moving across the river by ferry or bridge, the shipper or consignee paid a separate charge for the service.

In 1877 the following railroads were serving East St. Louis: Chicago, Burlington & Quincy Railroad Company, Cairo & St. Louis Railroad Company (now a part of the Mobile & Ohio Railroad); the East St. Louis & Carondelet Railway, now a part of the Terminal Railroad Association; the East St. Louis Connecting Railway, now a part of the Terminal Railroad Association; the Illinois & St. Louis Railroad & Coal Company; the Indianapolis & St. Louis Railroad, now a part of the C. C. C. & St. L. Railroad; the St. Louis, Vandalia, Terre Haute and Indianapolis Railroad; now a part of the Pennsylvania; the St. Louis & Cairo Short Line, now a part of the Illinois Central; the Ohio & Mississippi Railway Company, now a part of the Baltimore & Ohio; the St. Louis & Southeastern Railway, [fol. 129] Consolidated, now a part of the Louisville & Nashville.

And the following lines were operating west from St. Louis, Missouri; Missouri Pacific Railroad; St. Louis San Francisco Railway; St. Louis, Kansas City & Northern Railway Company, now a part of the Wabash; and the St. Louis Iron Mountain & Southern Railway.

In 1877 an important change occurred: The Chicago & Alton Railroad built its bridge across the Mississippi River

at Louisiana, Missouri, and extended its rails toward Kansas City, Missouri.

In 1878 it had completed a line from East St. Louis to Kansas City via that route.

The Alton thus interchanged its traffic with the eastern lines at East St. Louis. Via the route of the Alton the shipper avoided a bridge charge. This made the Alton a very important factor in the traffic owing to the volume of westbound tonnage. The western lines were forced to meet this competition if they expected to secure any traffic. Their rails did not reach East St. Louis and none of the eastern lines reached St. Louis at that time. Unless they paid the bridge toll, they would naturally not receive any westbound traffic. The shipper would naturally not route his freight via a line whose rails extended west from St. Louis when he could avoid the payment of the bridge charge by routing over the Alton from East St. Louis to the west.

That by reason of this competitive condition I have explained the west side lines, the Frisco, Missouri Pacific, Rock Island, and Missouri-Kansas-Texas were forced to pay and bear the bridge tolls.

At that time, as a matter of fact, the shipper had no control over the routing of traffic and the routing of traffic was entirely within the control of the carriers.

The act to regulate commerce had not been passed at that time. They have been doing that ever since on all [fol. 130] eastbound and westbound traffic and are doing it for reasons I will hereafter detail.

In 1889 the Terminal Railroad Association of St. Louis was organized to operate the terminals at St. Louis and East St. Louis, its capital stock being jointly owned by the following railroad companies at that time: The Louisville & Nashville Railroad; Ohio & Mississippi Railway; Cleveland, Chicago, Cincinnati & St. Louis Railroad; St. Louis, Iron Mountain & Southern Railroad; Missouri Pacific Railroad; and Wabash Railroad.

The St. Louis, Vandalia & Terre Haute Railroad Company became a joint owner on February 13, 1902. The St. Louis-San Francisco Railroad Company became a joint owner on June 9, 1902. The Chicago, Rock Island & Pacific and the St. Louis, Kansas City & Colorado Railroad Company, as part of the system of that company; Southern

Railway Company; Illinois Central Railroad Company; Missouri, Kansas & Texas Railway Company; Chicago & Alton Railway Company, and the Chicago, Burlington & Quincy Railway Company became a joint owner December 16, 1902.

All of those railroads became joint owners at that time, and the St. Louis Southwestern Railway in 1910, thus establishing St. Louis, Missouri, as a station on the eastern carriers named.

The Pennsylvania opened its freight station between O'Fallon Street and Cass Avenue, St. Louis, March 1, 1892.

The Louisville & Nashville opened its freight station Cass Avenue and Collins Street, St. Louis, November 21, 1892.

The Toledo, St. Louis & Western opened its freight station at Collins and Hempstead Streets, St. Louis, January 1, 1893.

The Wabash opened its present freight station at Carr Avenue and Collins Street in April 1893.

Prior to the organization of the Terminal none of the eastern lines' rails extended to St. Louis. They had no trackage in St. Louis.

St. Louis was not a station on their line. They had no [fol. 131] interest in any of the trans-river facilities.

From 1877 to at least 1889 none of the east side lines had any freight facilities west of the Mississippi River.

The eastern lines were slow to adjust themselves to the changed conditions. In 1903 the business interests of St. Louis took up the question of their formally recognizing St. Louis as a station on their lines. An ordinance was passed by the City of St. Louis appointing the Municipal Bridge and Terminal Commission to investigate the matter. As a result of their negotiations the eastern lines established St. Louis, Missouri, as a station on their lines east in 1906. The situation materially changed as the result of the organization of the Terminal and the establishment of St. Louis as a station on the rails of the east side lines.

Although St. Louis is a station on the eastern lines, they have for twenty years past refused to assume the bridge toll on their through traffic except to a very limited extent, which I will explain later. The eastern lines have continuously insisted on interchanging their through traffic

with their western connections a East St. Louis, thereby forcing the western lines to pay the bridge tolls in both directions.

At the present time on through traffic interchanged between the eastern lines at the St. Louis gateway on the one hand and the western lines on the other, the Terminal and its subsidiaries perform the intermediate service between the east and west banks.

The western lines on through traffic in both directions, with the exception of a limited territory immediately west of St. Louis, pay and bear the expense of the river crossing.

To state this differently, the east side lines in effect compel the west side lines to provide the facilities for transferring traffic across the river in both directions.

[fol. 132] Freight interchanged by the west side lines with the Illinois Traction System is handled by the latter company over its own bridge, the so-called McKinley bridge, interchange being made at St. Louis, Missouri, on traffic in both directions. The expense for the river crossing service, however, is paid and borne by the western lines.

The Burlington using the Alton, Illinois, bridge on a rental basis, handles with its own power the preponderance of its freight between its east and west side lines on the one hand and their connections in St. Louis, Missouri, or East St. Louis, Illinois, as the case may be, on the other hand.

The Missouri Pacific operates a ferry called the Ivory Transfer between Carondelet, Missouri, and East Carondelet, Illinois, transferring its own frieght in both directions.

The Chicago & Eastern Illinois interchanges its through traffic direct with the Frisco or Missouri Pacific at Twenty-third Street, St. Louis, Missouri, handling the freight with its own power over the tracks of the Terminal Railroad, using the Merchants Bridge, but west side lines pay and bear the bridge toll.

There has been a change in the practice of the Chicago & Eastern Illinois recently, in that they are now bringing their freight over to St. Louis, interchanging it at St. Louis with the Frisco and Missouri Pacific; whereas prior to this recent arrangement they did not do that.

The Chicago & Eastern Illinois discontinued the practice of delivering through freight at St. Louis, Missouri, about two years ago, and again started the practice August 10 of this year.

Merchandise interchanged between the eastern lines on the one hand and the western lines on the other is handled by the various transfer companies listed in Agent Leland's I. C. C. 1694, or in trap cars via Terminal.

Through traffic interchanged between the eastern lines on the one hand and the western lines on the other via the [fol. 133] Alton Bridge is handled by Missouri and Illinois Bridge & Belt Railroad Company, which is owned by the following railroads: Missouri Pacific Railroad Company; Louisville & Nashville Railroad Company; the Baltimore & Ohio Railroad Company; Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company; Cleveland, Cincinnati, Chicago & St. Louis Railway Company; Chicago, Peoria & St. Louis Railroad Company; Wabash Railway Company; Chicago & Eastern Illinois Railway Company; Missouri-Kansas-Texas Railroad Company; Chicago, Rock Island & Pacific Railroad Company.

As far back as 1905 the western lines started their efforts to rid themselves of the bridge tolls, not being satisfied to assume the expense in both directions. In 1908 Mr. W. H. Biddle, Third Vice-President of the Frisco Lines, objected to the continuance of the practice and took the subject up and on April 7, 1908, Mr. G. H. Crosby, Freight Traffic Manager of the Burlington wrote Mr. Biddle. Mr. Crosby said that the whole question should be disposed of on an equitable basis. He said it was manifestly unfair for the western lines to pay the transfer on both eastern and western business.

The Burlington reaches both St. Louis and East St. Louis.

And Mr. Crosby was Freight Traffic Manager of that line.

Mr. J. M. Johnson, Vice President of the Missouri Pacific, on May 19, 1908, wrote Mr. D. T. McCabe, Fourth Vice President of the Pennsylvania Lines, asking a conference to relieve the west side lines of the burdens of the bridge tolls. He stressed the importance of the matter to the western lines. At a meeting between east and west side lines on June 25, 1908, the west side lines demanded

that the expense be paid in one direction by the eastern lines. The eastern lines voted it down.

In New York, August 6, 1908, the subject was again considered in joint conference but nothing was accomplished. This was a joint conference back seventeen years ago between the eastern and western lines at New York.

A deadlock resulted, the eastern lines opposing any change. Mr. W. B. Biddle, Vice-President, Rock Island [fol. 134] Lines, on August 31, 1908, wrote Mr. B. B. Mitchell, General Traffic Manager of the New York Central lines, telling him that the western lines had this bridge expense forced upon them by competitive and peculiar conditions and appealing to his sense of fairness to grant them relief. Mr. G. H. Ingalls, Freight Traffic Manager, replied on September 1, 1908, that it was one of those situations where the action of the other lines has absolutely eliminated any possibility of their line retreating or offering a compromise.

During 1911 several unsuccessful efforts were made to arrange a joint conference. In the fall of 1914 we started to change the practice by declining to pay the bridge toll on eastbound traffic.

By "we", I mean the west side lines at St. Louis. Immediately the eastern lines served us with a notice, dated August 17, 1914, that they would not accept the freight. Several hundred cars became involved. Several were handled between the western and eastern lines many times. The Terminal became blocked. They asked us to discontinue delivering traffic unless we authorized payment of transfer or had the notice of eastern lines withdrawn.

The Chicago, Peoria & St. Louis Railroad withdrew its notice on September 1, 1914. It agreed to deliver westbound traffic to the western lines at St. Louis and to pay the bridge transfer. This was the first actual recognition of the justice of our demands. That relieved the Terminal of some of their acculumation.

It agreed to pay the bridge charge on westbound traffic, and it was a part of the agreement that the west side lines would continue to pay the bridge charge on eastbound traffic.

That was the substance of the agreement with that line at that time. It was one of the east side lines.

On September 19, 1921, the Chicago, Peoria & St. Louis Railroad withdrew its notice and joined the ranks of the other lines.

[fol. 135] October 3, 1914, two of the Freight Traffic Manager- of western lines, Messrs. Perkins of the Missouri Pacific and Johnson of the Rock Island, called on Commissioner Harlan and later wrote him appealing for relief from the burden of payment of the bridge transfer in both directions. On September 11, 1914, the western lines addressed a letter to the eastern lines for a conference. The situation with the Terminal being so acute, a meeting of the Board of Directors of the Terminal was held and after considering the matter it was stated that the subject was a question to be finally settled by the traffic officials of the interested lines.

A meeting of the executive committee of the Board of Directors of the Terminal was held on September 17, 1914, which further discussed the matter and referred it to the Executive Officers of the lines in interest to consider on September 23, 1914.

The eastern lines constituted a majority of the board of directors of the Terminal Railroad Association. The Board by a majority vote instructed the Terminal to refuse to handle the traffic unless the delivering lines guaranteed the transfer charge or had the eastern lines withdraw their notice.

On September 18, 1914, the eastern lines again served a notice on the western lines refusing to assume any portion of the bridge transfer charges.

At a meeting of the executive officers of St. Louis lines on September 28, 1914, the western lines endeavored to secure relief from the burden of the payment of the transfer in both directions and offered a resolution that the expense of the transfer be paid and borne by the receiving line. The vote was five for and twelve against, so it lost. The east side lines were in a majority at the meeting.

The east side lines have always been in a majority. On September 28 and again on September 29, 1914, the eastern lines issued additional notices to the western lines declining to assume any portion of the bridge transfer.

In order not to further delay the traffic, the western lines [fol. 136] being unsuccessful in their various efforts, notified

the Terminal that they would pay the transfer under protest. The western lines paid the transfer and have been and still pay on traffic moving in both directions.

Mr. George F. Randolph, Vice-President of the Baltimore & Ohio Railroad, on October 6, 1914, wrote Mr. W. D. Biddle, Receiver and Chief Traffic Officer, St. Louis-San Francisco Railroad, that if the Frisco went to the Commission with this matter they would divert business from us.

Several other meetings were held prior to Federal Control, the situation, however, remained unchanged. The western lines continued to pay the transfer in both directions.

During the period of Federal control Mr. John Barton Payne, Chief Counsel, instructed that the matter be held in suspense during the Federal control period.

After the period of Federal operation of the railroads, we continued our efforts to induce the eastern lines to share the transfer charges.

Finally the question reached the courts. The United States Supreme Court in its decision stated that the subject should be first submitted to the Interstate Commerce Commission and as a result this complaint was filed.

In 1877 traffic was unrouted and was, therefore, competitive. The competitive situation has changed. The shipper under the act to regulate commerce has the right to route his freight and he does so on approximately ninety-five per cent of the traffic.

That is true of through traffic moving through the St. Louis gateway today.

That was not true in 1877 and for many years following that, as the shipper had no right to route his traffice at that time. Since this situation was forced upon the western lines by the competition created by the Alton the following changes have occurred:

First, the organization of the Terminal Railroad Association.

[fol. 137] Second, the making of St. Louis as a station on the eastern lines.

Third, the disappearance of the competitive situation which has resulted from the act to regulate commerce which permits the shipper to route his freight.

Fourth, the decision of the Supreme Court, reported in 224 and 236 U. S., and the final decree in pursuance thereof, which held that the rails of the Terminal were in effect the rails of the proprietary lines and other lines using such facilities as terminal facilities.

Exhibit No. 5 and the facts therein contained have a bearing upon the allegation of our complaint: "That the carriers operating lines east of the Mississippi River own and control a majority of the stock of the said Terminal Railroad Association of St. Louis and its affiliated companies, and by reason thereof, the said carriers, defendants herein, have succeeded in forcing these complainants as west side lines to pay and ultimately bear the said transfer charges on both eastbound and westbound through traffic across the Mississippi River at said points; that for many years these complainants have sought and endeavored by every means at their command to relieve themselves of the undue burden of paying the said transfer charges on both eastbound and westbound through traffic across the Mississippi River at the point aforesaid."

(Said Exhibit was thereupon received in evidence, marked "Complainants' Exhibit No. 5, Witness Stanage.")

[fol. 138] The sole purpose of Complainants' Exhibit No. 5 is to show that we have been trying for nearly twenty years to change the practice of making us pay the bridge toll both ways, and to show also, by reason of the fact that the east side lines are in a majority of the Board of Directors of the Terminal Railroad Association, and have held us so we could not make any change for all of those years. That is the purpose of the exhibit, and that is the fact.

The copies shown in Exhibit No. 5 are true copies of the letters, notices, and minutes, and what not, that is in there. They were copied from our records, and those of the Missouri Pacific and M. K. T. In fact, copies of practically everything in the exhibit are also in the files of the east side lines.

I might mention in connection with the instructions of the Terminal about not accepting freight that the initials B. B. H. referred to or stood for B. B. Haman, who was agent for the Terminal Railroad Association. That was in

1913. And the initials H. M. R. stand for H. M. Robinson, who was agent of the Frisco at that time, the balance of the documents speak for themselves.

St Louis is a station on the eastern lines. They have freight stations in St. Louis; publish rates to St. Louis, and show St. Louis as a station on their lines. They show St. Louis as a station on their lines in the Official Guide, their official station lists, Agent Leland's open and prepay station list, as well as in their terminal tariffs. Complete reference to these issues is shown in Exhibit No. 6.

(Said exhibit was thereupon received in evidence, marked "Complainants' Exhibit No. 6, Witness Stanage."

[fol. 139] Exhibit No. 6 gives reference to the items and page numbers in the various issues on file with the Interstate Commerce Commission which show that St. Louis, Missouri, is a station on the rails of the eastern lines. These are all freight tariffs. The Official Railway Guide is used by both freight and passenger representatives of the carriers and shows the information for joint use and no reference is indicated in connection with the information shown in the Official Guide to the effect that it pertains and refers to and is applicable only to passenger traffic. It is used universally by agents and in fact all representatives of carriers to obtain what lines serve the different cities of the United States.

Take Item A, for instance, Leland's I. C. C. 1756, which shows a list of open and prepay stations on the railroads of the United States and Canada.

[fol. 140] It relates primarily to freight but can be used in connection with the location of these cities in connection with mail, passenger service, or freight, on traffic moving to those towns.

The people of St. Louis requested the eastern lines to make St. Louis a station on their line in 1903. Prior to that time a shipper in the East, take New York for example, could not consign a shipment to himself or some other person at St. Louis, Missouri. St. Louis, Missouri, was not, so to speak, on the railroad map. It was not recognized as a station on the rails of the eastern carriers. They issued no through bills of lading to St. Louis and accepted

no freight for St. Louis and the business interests of St. Louis asked that they be accorded recognition as a station on the eastern lines, and, after considerable negotiations, the eastern lines acquiesced by putting St. Louis as a station on their lines, and established through routes and rates to St. Louis, Missouri. Prior to that arrangement, the eastern lines accepted no freight for St. Louis as a destination. The destinations were East St. Louis and arrangements were made with transfer companies operating between St. Louis and East St. Louis for terminal delivery East St. Louis to St. Louis on that traffic.

At that time St. Louis and East St. Louis were given a common rate of 117 per cent. That was 1906, from trunk line territory, and 1908 from Central Freight Association territory.

The lines which had direct routes such as the Pennsylvania and Baltimore & Ohio, established connection with St. Louis via their own rails, but lines that did not reach St. Louis direct used connections that did reach St. Louis.

The Pennsylvania reached St. Louis over the rails of the Terminal, the Terminal delivering the freight for them at St. Louis, they being a proprietary line or an owner line.

The roads naming the Terminal Railroad Association [fol. 141] their subsidiary were concurring carriers under appropriate concurrences, and the rates were published with St. Louis designated as a station to which rates were published, and, the lines all being a party to the tariff, the rates applied in connection with the Terminal.

The Pennsylvania does not deliver any carload traffic to St. Louis that does not go over the rails of the Terminal Railroad Association. But there are transfer companies that act as agents for the Pennsylvania and have what they call off-track freight stations here in St. Louis that handle freight. This is also true of the other east side lines. The transfer companies do not join in the rate.

The various east side lines provide by an appropriate absorption tariff they will effect delivery at St. Louis, using the facilities of the various transfer companies, the companies in St. Louis acting as agent- for the Pennsylvania or

other eastern lines for delivery of their freight to consignees at St. Louis. That freight is unloaded at East St. Louis and drayed across the various bridges by these transfer companies to their various sub-stations and secured by the consignee at these substations and delivered to them at the substations, and they haul it away themselves. This includes both carload and less than carload lots, and these truck companies are the agent- of the east side- line in performing that service.

They also receive traffic going outbound from St. Louis to the east in the same manner I have described the inbound traffic.

If the shipper desires, he can ship a carload of freight over the Pennsylvania across the river and have it drayed across the river to the sub-stations, and the Pennsylvania Railroad pays the drayage company to perform that service from their depot to the sub-station of the transfer company, which is the station of the Pennsylvania Railroad Company in St. Louis. The east side lines issue dray [fol. 142] tickets and freight receipts, and they actually accept freight at St. Louis.

Through traffic from the East to the West in carloads is sometimes drayed the same as this local St. Louis traffic I spoke of, instead of being handled over the rails of the Terminal Association at St. Louis.

There is occasionally a carload and the bulk is confined to less than carload. The traffic — actually routed via one of the transfer companies. They handle traffic between east side lines on the one hand and west side on the other. There are a few pool cars. Pool cars are handled by so-called forwarding companies as a carload consignment. There is quite a volume of that traffic. It is shipped from the east and distributed from the East St. Louis to western lines without the use of the Terminal Railroad Association and its subsidiaries.

We pay the transfer in both directions, not only the transfer of the Terminal Railroad Association, but the transfer that is charged by these so-called dray companies.

By Exam. Disque:

[fol. 143] "Q. Do your rates from East St. Louis, for instance, to Kansas City, or Oklahoma City, include the

drayage expense across the bridge the same as the rail expense across the bridge, and has the shipper the option to ship either by rail or dray across the bridge, in carloads?

Mr. Roberts: I have no objection to the witness answering the question, but it is our contention under the pleadings this is not a rate case at all and has nothing to do with rates.

Exam. Disque: You are mixing divisions and rates up in it.

Mr. Roberts: We are not, and we are not going to. It is ninety per cent an operating matter, furnishing of through facilities and through routes.

Mr. Connell: What is the other ten?

Mr. Roberts: Furnishing facilities for through rates.

Mr. Connell: That is one hundred per cent operating then.

Mr. Stasser: I do not see how the two can be separated, if the Commission is going to decide this case on its merits.

The Witness: The eastern lines not only recognize St. Louis as a station on their lines but they arrange for the delivery of certain traffic to the western lines at St. Louis. On this traffic the eastern lines pay and assume the bridge transfer.

For Example, the Alton delivers freight from the East to the Frisco at St. Louis and pays the bridge transfer when destined to points as far west on the Frisco as Marshfield, Missouri.

The Alton delivers freight to the Missouri Pacific at St. Louis and pays the transfer when from points in the east destined to points on the Missouri Pacific as far west as Osage, Missouri.

[fol. 144] They deliver it to us at St. Louis and pay the bridge toll on that traffic. St. Louis, Missouri, is, therefore, the point of interchange on that traffic just described.

The Alton delivers freight to the Rock Island at St. Louis and pays the transfer when from points east and destined to stations as far west as Eldon, Missouri.

The Big Four delivers freight to the Wabash, west, at St. Louis and pays the bridge — when destined to points in Missouri east of Wellsville.

The Big Four delivers freight at St. Louis to the Wabash either via the Terminal Association in trap cars or by

drays, paying the various transfer companies for their services from East St. Louis, Illinois, to St. Louis, Missouri—the Wabash depot on the St. Louis side.

It may not deliver it by its own power, but it uses the facilities of the Terminal Railroad Association in getting it to us at St. Louis and pays the charge of the Terminal Railroad Association.

In other words, it provides absorption for a through route.

The Baltimore & Ohio delivers freight to the Frisco at St. Louis and pays the bridge transfer when destined to points in Missouri on the Frisco east of Springfield, Missouri.

The Baltimore & Ohio delivers freight to the Missouri Pacific at St. Louis and pays the transfer when destined to points in Missouri as far west as Osage, Missouri, either using the Terminal Railroad Association or sending the [fol. 145] freight over by truck, using the facilities of the recognized transfer companies which operate between East St. Louis, Illinois, and St. Louis, Missouri, and deliver the freight to the west side lines at St. Louis.

When a car comes from the Big Four and goes to Kansas City, the Big Four issues what they term a transfer way-bill which accompanies the car to the west side line. The Terminal handles that from East St. Louis, using that in a broad term, the East St. Louis district—handles that car from East St. Louis to St. Louis terminal and places it on interchange connection of the west side line.

The change in that service we ask the Big Four to make—that practice is that the Big Four pay for that expense—pay the Terminal expense for placing the car on the Frisco connection—speaking of the Frisco at St. Louis.

The Baltimore & Ohio delivers freight to the Missouri-Kansas-Texas at St. Louis and pays the bridge — when destined to points on the Missouri-Kansas-Texas in Missouri as far west as Tebbetts.

The Pennsylvania delivers freight to the Frisco at St. Louis and pays the transfer when destined to points in Missouri on the Frisco south of St. Louis to Hermondale, 231½ miles.

The L. & N. delivers freight from Louisville, for example, east of the Mississippi River, carloads and less, to the Frisco

at St. Louis and pays the transfer when destined to points on the Frisco west of St. Louis to Marshfield, Missouri, inclusive, or to points on the Frisco south of St. Louis to Hermondale, Missouri, inclusive.

Speaking of that traffic coming from points on the L. & N. east of the Mississippi River to the territory described, the L. & N. Railroad assumes the burden of delivering that traffic to the west side lines at St. Louis, Missouri.

In fact, all the eastern lines arrange for the delivery of through freight to the western lines—Frisco, Missouri Pacific, Missouri-Kansas-Texas, Rock Island, and Wabash, [fol. 146] and pay the bridge toll when destined to points in the territory previously mentioned. They recognize St. Louis as a station on their lines and as an interchange point on through westbound traffic.

As to all through traffic to points beyond these nearby points the eastern lines have declined to deliver their through traffic to the western lines at St. Louis, forcing the western lines to pay and assume the bridge toll. My exhibit number 7 substantiates this statement.

The data shown in the exhibit *is* correct. This exhibit, I might state, contains photostatic copies of the freight receipts which are issued as transfers, accompanying the freight from the railroads whose names are shown on each receipt, in delivering the freight to the Frisco at St. Louis in less than carloads. The last sheet, number 10, is a copy of the transfer bill showing a shipment which the Terminal handled from East St. Louis, Illinois, received by them from the L. & N. Railroad, a car of culvert pipe from Newport, Kentucky, destined to Lebanon, Missouri. The L. & N. pays the transfer being shown in the lower righthand corner.

Page 10 is a photostatic reproduction of the original transfer bill issued by the L. & N. Railroad Company as shown in the lower lefthand corner covering the movement of GMN car 3577 from the L. & N. at East St. Louis to the Frisco at St. Louis via B. R.—via the bridge which is the subsidiary of the Terminal—I do not know whether it came over the Merchants Bridge or the Eads Bridge. This transfer bill accompanied the car that the Terminal handled from its connection with the L. & N. at East St. Louis to Terminal connection with the Frisco at St. Louis. The L.

& N. paid that transfer, as indicated by the notation at the extreme righthand lower corner.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 7, Witness Stanage.")

[fol. 147] Lebanon was used as an illustration. If that shipment had been destined to a point like Oklahoma City the L. & N. would not have paid the transfer charge of the Terminal from the connection at East St. Louis to the Terminal's connection at St. Louis, but would have insisted upon the Frisco paying it and we are paying it today.

The eastern lines not only recognize St. Louis as a station on their lines by tariff publication and otherwise, but they have freight stations at St. Louis where they receive and deliver freight. They issue bills of lading, dray tickets, both covering freight outbound as well as freight inbound.

My exhibit number 8 is photostatic copies of original bills of lading showing shipments of freight, principally carloads, delivered by various shippers in the St. Louis district to representative east side lines at St. Louis, and signed for by various railroads at St. Louis, outbound shipments going east over the rails of the east side lines.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 8, Witness Stanage.")

For example, take the first page, being a bill of lading of the Baltimore & Ohio at its Gregg station. Gregg Station is a point on the Terminal Railroad Association lines on what is termed their West Belt—that is a belt that circles the western part of the city, extending from connection with the Merchants Bridge on the north, west, turning south, finally connecting with the Frisco at Lindenwood station, about six miles west of St. Louis.

The Terminal Railroad Association agent, Mr. S. R. Stevenson, signed this B. & O. bill of lading, as agent of the B. & O. Railroad.

The Terminal Railroad Association and subsidiaries acts as agent of the B. & O. in St. Louis and signs the bill of [fol. 148] lading acting for the B. & O. as their agent.

This is a carload shipment. The car was received from the shipper by the Terminal Railroad Association on the Terminal warehouse as agent for the Baltimore & Ohio Railroad Company, for which it acts as agent.

These are exact copies of original bills of lading issued by the east side lines as shown in exhibit number 8.

I have the originals here and these are photostatic copies of the original-.

[fol. 149] I might mention on page 30 that that page is a photostatic reproduction of Smith & Davis Manufacturing Company straight bill of lading from, dated St. Louis, Missouri, February 4, 1925, showing the delivery of a consignment of merchandise to the C. & A. Railroad, destined to Escanaba, Michigan. The stamp at the lower righthand corner indicates that that shipment was received by the Columbia Terminals Company. The Columbia Terminals Company operate several so-called substations in the St. Louis district and are agents for each of the East Side lines at St. Louis, Missouri.

Those transfer companies such as the Columbia Transfer Company are The Columbia Terminals Company, Central Transfer Company, McMahon Transfer Company, and Fidelity Transfer Company. Those are the principal ones.

The east side lines, through the agency of these transfer companies, maintain stations at St. Louis.

The charges of these Transfer Companies in transferring the traffic from and to the stations to the railroads are paid by the east side line bringing the freight into St. Louis, when traffic comes into St. Louis or the line to whom the freight is delivered at St. Louis when the traffic is destined outbound from St. Louis to east; in other words, the carriers handling the traffic to or from East St. Louis in roadhaul movement.

Going back to page 1 of this exhibit number 8, this car of freight was loaded at the plant of the Evens & Howard Firebrick Company, which is located at Gregg Station, a point on the west belt division of the Terminal Railroad Association of St. Louis, and the agent of the Terminal Railroad Association in St. Louis, Mr. S. R. Stevenson, signed that Baltimore & Ohio Railroad Company bill of lading as agent of the Baltimore & Ohio Railroad Company.

The Baltimore & Ohio never received it until it reached East St. Louis.

When I said received it I meant in their own Baltimore & Ohio yards. The Baltimore & Ohio receipted for it when

[fol. 150] the Terminal was adv' d, the Terminal being the Baltimore & Ohio agent, that the car was ready to be delivered to the Baltimore & Ohio Railroad.

I investigated the practice of carriers in interchanging through freight and I find it to be the practice for the delivering line to deliver its freight to its connections.

Where facilities for the direct interchange of traffic do not exist the delivering line assumes the expense incident to the delivery of its freight to its connection when using the services of an intermediate carrier. I personally investigated the present practices of the defendant carriers at all of the Mississippi River crossings from Dubuque, Iowa, to New Orleans, Louisiana, also at Ohio River crossings, Cairo, Illinois, to Cincinnati, Ohio, and at the principal cities in Central Freight Association territory, and I find the facts to be as follows——

I am now dealing with the question of the reasonableness of the present practice at St. Louis and East St. Louis, and am going to detail the practice and the method of interchange at other points. At Dubuque, Iowa, the present practice observed in the interchange of through carload traffic is as follows: The Burlington delivers its freight, at its own expense, to the Great Western and the Great Western delivers its freight, at its own expense, to the Burlington.

When I say delivers its freight I refer to instances where a direct connection exists, and is a customary practice for road A, for example to deliver that freight on joint interchange connection between A and B and for A to bring back freight which was left on that interchange connection by road B, road B having brought its freight to that common interchange point where the traffic is interchanged direct by the two interests.

In the following testimony I will deal with two situations: The method and practice of interchange where two carriers connect direct, and the method and practice of interchange where a switching line and the service of a switching line [fol. 151] is used to transfer traffic from one line to another.

Of course, there is a third situation where the two carriers interchange freight do not connect direct but they both run over the tracks of an intermediate line to interchange their freight direct.

[fol. 152] At this time the point of interchange between the east and west side lines as to all through traffic, both westbound and eastbound, with certain exceptions mentioned heretofore to territory close to St. Louis is East St. Louis, Illinois.

The West side lines deliver, or cause to be delivered, eastbound traffic to the east side lines at East St. Louis, by using the Terminal Railroad Association and its subsidiaries or these various transfer companies. They receive and accept at the present time all westbound through traffic from the east side lines at East St. Louis, Illinois. They bring that traffic from East St. Louis by using the Terminal Company's facilities or these various transfer companies, and assume or bear the expense of those facilities—charges exacted by the forwarding companies that perform the service.

The Frisco rails, for instance, illustrating for the west side lines, do not in a physical sense reach East St. Louis, they stop in St. Louis.

But the Terminal Railroad Association, that is owned in [fol. 153] part by the Frisco and is the terminal of the Frisco at St. Louis, does reach East St. Louis.

I find it to be the customary practice for the delivering line to deliver its freight where it has a direct connection with its connection at a given junction point. Where no direct physical connection exists and it is necessary to use the services of an intermediate switching line, the customary practice is for the delivering line to assume and bear the expense of making that delivery of its freight to its connect- [fol. 154] ing lines, using the intermediate switching line in order to effect that delivery.

(By Complainants' Attorney Roberts:) Do you concur with this statement of R. V. Fletcher, Attorney for the Peoria & Pekin Union Railway Company, when Judge Fletcher makes this statement on page 112 of his brief in the Pekin Union case, "The general practice is for the delivering line to pay the charge of the intermediate switching line. There are practically no exceptions."

(Objection made by Defendants' Attorneys.)

(Witness Stanage:) Yes, except there are one or two exceptions where there is a question of reciprocity, but the

practice generally is for the delivering line to make the delivery and assume the charge.

At Dubuque, Iowa, the present practice observed in the interchange of through carload traffic is as follows: The Burlington delivers its freight, at its own expense, to the Great Western, and the Great Western delivers its freight, at its own expense, to the Burlington.

The Burlington delivers its freight, at its own expense, to the St. Paul and the St. Paul delivers its freight, at its own expense, to the Burlington.

The Burlington delivers its freight, at its own expense, to the Illinois Central and the Illinois Central delivers its freight, at its own expense, to the Burlington.

The St. Paul delivers its freight, at its own expense, to the Great Western, and the Great Western delivers its freight, at its own expense, to the St. Paul.

The St. Paul delivers its freight, at its own expense, to the Illinois Central, and the Illinois Central delivers its freight, at its own expense, to the St. Paul.

The Illinois Central delivers its freight, at its own expense, to the Great Western, and the Great Western delivers its freight, at its own expense, to the Illinois Central.

Merchandise is handled between connections both by trap [fol. 155] car and dray. The delivering line assumes the drayage expense involved. Where trap car is used the car is placed on the interchange track by and at the expense of the delivering line.

Where I say a certain road delivers its freight to its connection, I mean there is interchange connection between the two and they do not use the services of an intermediate switching line for delivery.

When I say these lines deliver their freight without cost, I mean the St. Paul at Dubuque, Iowa, for example, places any freight there which it may have for the Illinois Central on the St. Paul's interchange connection with the Illinois Central and the Illinois Central having any freight for the St. Paul places its freight on that interchange connection for the St. Paul.

I am telling the actual practice in these different points and it varies according to the different roads.

[fol. 156] The Witness: I would like to make it clear in the record where I say a road delivers its freight at its

own expense to connecting line, I there refer to a situation where a direct interchange exists between the two lines I mention. The practice in that kind of a case, and all of these cases I detail, where I use that expression I mean the inbound road places its freight on its joint interchange with its connection at a given point, and in the reverse direction that connecting line in turn brings its freight to that common interchange point. In other words, each road-haul line at a given point—like Dubuque, Ia.,—brings its freight to the interchange connection with the other lines at Dubuque with which they connect and there interchange traffic at that particular interchange facility.

In other words, the line that brings in the traffic assumes the duty of delivering it to its connection. That is the universal practice in the United States—of the delivering line delivering its freight at a junction point to its connecting line, and where it has no direct connection and is not able physically to deliver it by putting it on the joint interchange track, then it must arrange with the connecting line which does connect with its connection, and at all these junction points where joint interchange facilities do not exist they have an intermediate switching line to which they deliver the traffic to take said traffic over to its connection, and in instances of that kind the line delivering the freight to the switching line pays the switching line for the service of taking its freight over to its connection, using the switching line to perform that service, and the delivering line pays the charge assessed by the switching line for that intermediate service and assumes and bears it. [fol. 157] That is, the line that brings in the traffic bears that burden. In other words, the line bringing freight into a terminal effects delivery of that freight to its connecting line, either by delivering it direct or by using the facilities of a third line, to which they pay the charge for that intermediate service. In the reverse direction it is just the opposite of what I have said.

At East Dubuque, Illinois, the Burlington delivers its freight at its own expense to the Illinois Central and the Illinois Central delivers its freight, at its own expense, to the Burlington.

At Savannah, Illinois, the Burlington delivers its freight, at its own expense, to the St. Paul and the St. Paul delivers

its freight, at its own expense, to the Burlington. Merchandise is interchanged by trap car.

At Clinton, Iowa, the present practice observed in the interchange of through carload traffic is as follows:

Mr. Roberts: I suggest you use the word "direct" to make it clear.

The Witness: The Burlington delivers its freight, direct, at its own expense, to the Northwestern, and the Northwestern delivers its freight, direct, at its own expense, to the Burlington.

The Burlington delivers its freight direct, at its own expense, to the St. Paul and the St. Paul delivers its freight direct, at its own expense, to the Burlington.

The Burlington and Rock Island interchange freight direct, at their own expense, in their joint yard.

The Northwestern delivers its freight direct, at its own expense, to the St. Paul and the St. Paul delivers its freight direct, at its own expense, to the Northwestern.

[fol. 158] The Northwestern delivers its freight direct, at its own expense, to the Rock Island and the Rock Island delivers its freight direct, at its own expense, to the Northwestern.

The St. Paul delivers its freight direct, at its own expense, to the Rock Island and the Rock Island delivers its freight direct, at its own expense, to the St. Paul.

The C. D. & M. delivers its freight direct, at its own expense, to the Northwestern and the Northwestern delivers its freight direct, at its own expense, to the C. D. & M.

The Northwestern performs intermediate switching service between the C. D. & M. on the one hand and the Burlington on the other. The intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Northwestern performs intermediate switching service between the C. D. & M. and the St. Paul. The intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Northwestern performs intermediate switching service between the C. D. & M. and the Rock Island; the intermediate switching charge on through traffic is paid and borne by the delivering carrier.

At Davenport, Iowa, the present practice observed in the interchange of through carload traffic is as follows:

The Burlington delivers its freight direct, at its own expense, to the St. Paul and the St. Paul delivers its freight direct, at its own expense, to the Burlington.

The Burlington delivers its freight direct, at its own expense, to the Rock Island and the Rock Island delivers its freight direct, at its own expense, to the Burlington.

The Burlington delivers its freight to the C. D. & M. direct, at its own expense, and the C. D. & M. delivers its freight direct, at its own expense, to the Burlington.

[fol. 159] The St. Paul delivers its freight, direct, at its own expense, to the Rock Island and the Rock Island delivers its freight direct, at its own expense, to the St. Paul.

At Davenport, Iowa, the Rock Island or the Davenport, Rock Island & Northwestern performs the intermediate switching service between the St. Paul on the one hand and the Clinton, Davenport & Muscatine on the other; the intermediate switching charge on through traffic is paid and borne by the delivering carrier.

Merchandise is interchanged by dray the delivering line assuming the expense involved.

At Rock Island, Illinois, the present practice observed in the interchange or through carload traffic is as follows:

The Burlington delivers its freight direct, at its own expense, to the St. Paul, carloads being interchanged at East Moline, Illinois, and the St. Paul delivers its freight direct, at its own expense, to the Burlington.

The Burlington delivers its freight direct at its own expense, to the Rock Island at Silvia Transfer, Illinois—that is a point near Rock Island—and the Rock Island delivers its freight direct, at its own expense, to the Burlington at the same point.

The Rock Island performs intermediate switching service between the Rock Island and the Southern on the one hand and the Chicago, Burlington & Quincy on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Rock Island performs intermediate switching service between the Rock Island & Southern on the one hand and the St. Paul on the other. Intermediate switching charge on through traffic is paid and borne by the delivering carrier.

[fol. 160] The Rock Island Southern delivers its freight direct, at its own expense, to the Rock Island and the Rock

Island delivers its freight direct at its own expense to the Rock Island Southern, both lines use the same yard facilities.

At Keithsburg, Illinois, the Burlington delivers its freight direct, at its own expense, to the M. & St. L., and the M. & St. L. delivers its freight direct, at its own expense, to the Burlington.

At Burlington, Iowa, the present practice observed in the interchange of through carload traffic is as follows:

The Rock Island delivers its freight direct, at its own expense, to the Burlington and the Burlington delivers its freight direct, at its own expense, to the Rock Island.

The Burlington performs the intermediate switching service between the Rock Island on the one hand and the T. P. & W. on the other. Intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Burlington delivers its freight direct, at its own expense, to the T. P. & W., and the T. P. & W. delivers its freight direct, at its own expense, to the Burlington.

Merchandise is interchanged by trap car, the delivering line in each instance assumes the expense of delivering its freight to its connection.

At Ft. Madison, Iowa, the Santa Fe delivers its freight direct, at its own expense, to the Burlington and the Burlington delivers its freight direct, at its own expense, to the Santa Fe.

At Keokuk, Iowa, the present practice observed in the interchange of through carload traffic is as follows:

The Rock Island delivers its freight direct, at its own expense, to the Wabash and the Wabash delivers its freight, direct, at its own expense, to the Rock Island; both use the same yard facilities.

[fol. 167] The Rock Island delivers its freight direct, at its own expense, to the Burlington and the Burlington delivers its freight direct, at its own expense, to the Rock Island.

The Rock Island delivers its freight direct, at its own expense, to the T. P. & W., and the T. P. & W. delivers its freight direct, at its own expense, to the Rock Island.

The Burlington delivers its freight direct, at its own expense, to the T. P. & W., and the T. P. & W. delivers its freight direct, at its own expense, to the Burlington. They both use the same yard facilities.

The Burlington delivers its freight direct, at its own expense, to the Wabash and the Wabash delivers its freight direct, at its own expense, to the Burlington.

Merchandise is interchanged between the various lines by dray, the delivering line assuming the expense involved.

At Hamilton, Illinois, opposite Keokuk, Iowa, the T. P. & W. delivers its freight direct, at its own expense, to the Wabash and the Wabash delivers its freight direct, at its own expense, to the T. P. & W.

At Quincy, Illinois, the Burlington delivers its freight direct, at its own expense, to the Wabash and the Wabash delivers its freight direct, at its own expense, to the Burlington.

Merchandise traffic is interchanged by dray unless the tonnage is 6,000 pounds, or more, when interchange is effected by trap car, the delivering line making the delivery to its connections.

At Hannibal, Missouri, the Burlington delivers its freight direct, at its own expense, to the Wabash and the Wabash delivers its freight direct, at its own expense, to the Burlington.

The Burlington delivers its freight direct, at its own expense, to the St. Louis & Hannibal and the St. Louis & Hannibal delivers its freight direct, at its own expense, to the Burlington.

[fol. 162] The Wabash delivers its freight direct, at its own expense, to the St. Louis & Hannibal and the St. Louis & Hannibal delivers its freight direct, at its own expense, to the Wabash.

Merchandise traffic is interchanged by dray, the delivering line assuming the expense involved.

At Louisiana, Missouri, the Burlington delivers its freight direct, at its own expense, to the Alton and the Alton delivers its freight direct, at its own expense, to the Burlington.

Merchandise is interchanged by dray, the delivering line assuming the expenses involved.

At Chaffee, Missouri, the interchange point opposite Thebes, Illinois, the Frisco delivers its freight direct, at its own expense, to the Eastern Illinois and the Eastern Illinois delivers its freight direct, at its own expense, to the Frisco. They both use the same yard facilities.

By Mr. Roberts:

"Q. At Chaffee you mean the Chicago & Eastern Illinois Railroad?"

"A. Yes, sir. I am going to file a three page exhibit to show the abbreviations I have used here. I have used abbreviations to shorten it up."

At Memphis, Tennessee, the present practice observed in the interchange of through carload traffic is as follows: The Frisco delivers its freight direct, at its own expense, to the I. C. Y. & M. V. and the I. C. Y. & M. V. delivers its freight direct, at its own expense, to the Frisco.

The Frisco delivers its freight direct, at its own expense, to the Louisville & Nashville and the Louisville & Nashville delivers its freight direct, at its own expense, to the Frisco.

The Frisco delivers its freight direct, at its own expense, [fol. 163] to the N. C. & St. L. and the N. C. & St. L. delivers its freight direct, at its own expense, to the Frisco.

The Frisco delivers its freight direct, at its own expense, to the Southern for the M. & O. and the Southern for the M. & O. delivers its freight direct, at its own expense, to the Frisco.

The Frisco delivers its freight direct, at its own expense, to the Southern and the Southern delivers its freight direct, at its own expense, to the Frisco.

The interchange between the Frisco and the Rock Island is performed by the Rock Island power, the latter line taking the freight to or from Georgia Street yard of the Frisco.

The Frisco delivers its freight direct, at its own expense, to the Missouri Pacific and the Missouri Pacific delivers its freight direct, at its own expense, to the Frisco.

The Frisco delivers its freight direct, at its own expense, to the Cotton Belt and the Cotton Belt delivers its freight, direct, at its own expense, to the Frisco.

Interchange between the Frisco on the one hand and the Mississippi Warrior Service on the other is effected at the Payne yard of the latter company and the Mississippi Warrior Service perform the intermediate switching service between the Payne yard and the barges in the Missis-

sippi River; the interme diate switching expense on through traffic is paid and borne by the delivering carrier.

The Southern for the Mobile & Ohio delivers its freight to the I. C. Y. & M. V., direct at its own expense, and the I. C. Y. & M. V. delivers its freight direct, at its own expense, to the Southern for the Mobile & Ohio.

The Southern for the Mobile & Ohio delivers its freight, direct, at its own expense, to the Louisville & Nashville and the Louisville & Nashville delivers its freight, direct, at [fol. 164] its own expense, to the Southern for the Mobile & Ohio.

The Southern for the Mobile & Ohio delivers its freight direct, at its own expense, to the N. C. & St. L. and the N. C. & St. L. delivers its freight direct, at its own expense, to the Southern Forrest Yard for the Mobile & Ohio.

The Southern for the Mobile & Ohio delivers its freight direct at its own expense, to the Missouri Pacific and the Missouri Pacific delivers its freight, direct, at its own expense, to the Southern for the Mobile & Ohio.

The Southern for the Mobile & Ohio delivers its freight direct, at its own expense, to the Rock Island and the Rock Island delivers its freight direct, at its own expense, to the Southern Forrest Yard for the Mobile & Ohio.

The Southern for the Mobile & Ohio delivers its freight direct, at its own expense, to the Cotton Belt and the Cotton Belt delivers its freight direct, at its own expense, to the Southern for the Mobile & Ohio.

The Union Railway——

By Mr. Roberts:

"Q. What is the Union Railway at Memphis?"

"A. That is the switching line owned by the Missouri Pacific. The Union Railway performs intermediate switching service between the Southern for the Mobile & Ohio on the one hand and the M. W. S. on the other, delivery being made to the Mississippi Warrior Service in the Payne yard for switching by them to or from the barges in the river. The intermediate switching expense of both lines on through traffic is paid and borne by the delivering carrier."

By Mr. Roberts:

"Q. By that you mean the carrier that brings in the traffic?"

"A. Yes, the carrier that brings in the traffic and uses the Union Railway to effect delivery of that traffic between the railroad and the barge line facilities; it pays the Union Railway."

[fol. 165] The Southern Railway handles traffic for the Mobile & Ohio between Memphis, Tennessee, and Corinth, Mississippi.

The Southern delivers its freight, direct, at its own expense, to the Missouri Pacific and the Missouri Pacific delivers its freight direct, at its own expense, to the Southern.

The Southern delivers its freight, direct, at its own expense, to the I. C. Y. & M. V. and the I. C. Y. & M. V. delivers its freight direct, at its own expense, to the Southern.

The Southern delivers its freight direct, at its own expense, to the Louisville & Nashville and the Louisville & Nashville delivers its freight direct, at its own expense, to the Southern.

The Southern delivers its freight direct, at its own expense, to the N. C. & St. L., and the N. C. & St. L. delivers its freight direct, at its own expense, to the Southern Forrest Yard.

The Southern handles its freight direct to and from the Chicago, Rock Island & Pacific one month and the Chicago, Rock Island & Pacific handles its freight to and from the Southern the other month.

"Q. Is that arrangement that you have just spoken of—it is the first of the kind you have mentioned—is that a reciprocal arrangement between those two carriers, and if so, in what way?"

"A. It is reciprocal to this extent, that they pool the interchange service; that is to say, in the interest of economy the Southern will handle all of the freight to the Rock Island and back to its own rails, in both directions, one month, and then the other line will perform that same service the next month. In other words, they alternate in performing the service; instead of the Southern taking its

cars to the Rock Island interchange and coming back with what the Rock Island has for it, and the Rock Island going to the Southern interchange, getting what the Southern [fol. 166] left for the Rock Island, they pool the service, and the Southern handles the freight in the Rock Island yard and brings back what the Rock Island has for the Southern."

"Q. You have answered my question that it is reciprocal?"

"A. Yes sir. The Southern delivers its freight direct, at its own expense, to the Cotton Belt and the Cotton Belt delivers its freight, at its own expense, to the Southern."

The Union Railway performs intermediate switching service between Southern Railway on the one hand and Mississippi Warrior Service on the other, delivery being made to the latter at their Payne yard. The Mississippi Warrior Service performs intermediate service from the Payne yard to the Barges in the river, the intermediate switching expense of both lines on through traffic paid and borne by the delivering carrier.

The Louisville & Nashville delivers its freight direct, at its own expense, to the I. C. Y. & M. V. and the I. C. Y. & M. V. delivers its freight, direct, at its own expense, to the Louisville & Nashville.

The Louisville & Nashville delivers its freight direct, at its own expense, to the N. C. & St. L. and the N. C. & St. L. delivers its freight direct, at its own expense, to the Louisville & Nashville.

The Louisville & Nashville delivers its freight to the Missouri Pacific, direct, at its own expense, and the Missouri Pacific delivers its freight direct, at its own expense, to the Louisville & Nashville.

The Louisville & Nashville delivers its freight direct, at its own expense, to the Rock Island and the Rock Island delivers its freight, direct, at its own expense, to the Louisville & Nashville.

The Louisville & Nashville delivers its freight direct, at its own expense, to the Cotton Belt and the Cotton Belt [fol. 167] delivers its freight direct, at its own expense, to the Louisville & Nashville.

The Louisville & Nashville delivers its freight direct, at its own expense, to the Mississippi Warrior Service, in the Payne Yard of the latter Company and the Mississippi Warrior Service performs intermediate switching between the Payne Yard and its barges in the river. The intermediate switching charge on through traffic is paid and borne by the delivering carrier. Traffic delivered to the Louisville & Nashville by the Mississippi Warrior Service is handled the reverse of the above.

The Mississippi Warrior Service delivers its freight direct, at its own expense, to the I. C. Y. & M. V. in its Payne Yard and the I. C. Y. & M. V. delivers its freight direct, at its own expense, to the Mississippi Warrior Service in the latter's Payne Yard. The Mississippi Warrior Service performs the switching between its Payne yard and its barges in the river. The intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Mississippi Warrior Service delivers its freight direct, at its own expense, to the N. C. & St. L. in the Payne Yard of the Mississippi Warrior Service, and the N. C. & St. L. delivers its freight direct, at its own expense, to the Mississippi Warrior Service in the latter's Payne Yard. The Mississippi Warrior Sercise performs the intermediate switching between the Payne Yard and its barges in the river and on through traffic the intermediate switching charge is paid and borne by the delivering carrier at Memphis.

The Rock Island delivers its freight to the Mississippi Warrior Service at the latter's Payne Yard and the Mississippi Warrior Service delivers its freight direct, at its own expense, to the Rock Island in the Payne Yard. The Mississippi Warrior Service performs the intermediate switching [fol. 168] between the Payne Yard and its barges in the river, and on through traffic the intermediate switching charge is paid and borne by the delivering carrier.

The Mississippi Warrior Service delivers its freight direct, at its own expense, to the Cotton Belt in the Payne Yard, and the Cotton Belt delivers its freight direct, at its own expense, to the Mississippi Warrior Service in its Payne Yard. The Mississippi Warrior Service performs

the intermediate switching service between its Payne Yard and the barges in the river and on through traffic the intermediate switching charge is paid and borne by the delivering carrier.

The Mississippi Warrior Service delivers its freight direct, at its own expense, to the Missouri Pacific in the Payne yard and the Missouri Pacific delivers its freight, direct, at its own expense, to the Mississippi Warrior Service in its Payne Yard. The Mississippi Warrior Service performs the intermediate switching service between its Payne yard and the barges in the river, and on through traffic the intermediate switching charge is paid and borne by the delivering carrier.

"The Examiner: Why not say 'delivers its freight direct'? It means the same thing."

"The Witness: The Missouri Pacific delivers its freight direct to the I. C. Y. & M. V. and the I. C. Y. & M. V. delivers its freight direct to the Missouri Pacific."

The Missouri Pacific delivers its freight direct to the N. C. & St. L. and the N. C. & St. L. delivers its freight direct to the Missouri Pacific.

The Missouri Pacific delivers its freight direct to the Rock Island and the Rock Island delivers its freight direct to the Missouri Pacific.

The Missouri Pacific delivers its freight direct to the Cotton Belt and the Cotton Belt delivers its freight direct to the Missouri Pacific.

[fol. 169] The Rock Island delivers its freight direct to the I. C. Y. & M. V. and the I. C. Y. & M. V. delivers its freight direct to the Rock Island.

The Rock Island delivers its freight to the Cotton Belt, direct, and the Cotton Belt delivers its freight direct to the Rock Island.

The Cotton Belt delivers its freight direct to the I. C. Y. & M. V. and the I. C. Y. & M. V. delivers its freight direct to the Cotton Belt.

The Cotton Belt delivers its freight direct to the N. C. & St. L. and the N. C. & St. L. delivers its freight direct to the Cotton Belt.

The N. C. & St. L. delivers its freight direct to the I. C. Y. & M. V. and the I. C. Y. & M. V. delivers its freight to the N. C. & St. L.

Merchandise is interchanged either by dray or trap car, the delivering line assuming the intermediate expense involved.

At Harvard-Hulbert the Frisco performs the switching on all traffic interchanged with the Rock Island, the expense for the service being prorated between the two lines.

At Bridge Junction, Arkansas, the Frisco delivers its freight direct to the Missouri Pacific and the Missouri Pacific delivers its freight direct to the Frisco.

The Missouri Pacific delivers its freight direct to the Rock Island and the Rock Island delivers its freight direct to the Missouri Pacific.

At Helena, Arkansas, direct interchange exists between the M. & N. A., Y. & M. V. and the Missouri Pacific, each line delivering freight to the connection at its own expense. Merchandise is interchanged by trap car from the Missouri Pacific to Y. & M. V. and M. & N. A. Merchandise inter- [fol. 170] changed between the M. & N. A. and the Y. & M. V. is handled in joint freight house.

At Vicksburg, Mississippi, direct interchange is made between the A. & V., Mississippi Warrior Service, V. S. & P. and Y. & M. V. All of those carriers interchange freight between themselves direct, at their own expense; that is, the delivering line making delivery. Any merchandise handled is interchanged by trap car, the delivering line assuming the expense of effecting delivery to its connection.

At Natchez, Mississippi, freight is interchanged direct between the Natchez & Southern and Mississippi Central or Natchez & Southern and Y. &. M. V., each line delivering its freight direct to its connection, at its own expense. The Natchez & Southern performs the intermediate switching service between the Mississippi Central on the one hand and the Y. & M. V. on the other. Intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Y. & M. V. delivers its freight direct to the Natchez & Southern and the Natchez & Southern delivers its freight direct to the Y. &. M. V.

Merchandise is interchanged by dray, the delivering line assuming the expense involved.

At Natchez, Vidalia, Louisiana, the interchange between the east and west side lines is performed as between the five

interested lines, viz., the Missouri Pacific, L. & A. on the west bank, and Y. &. M. V. and Mississippi Central and Natchez & Southern on the east bank on the basis of all of the lines prorating the expense of trans-river ferry which is operated by the Natchez & Louisiana Railway Transfer Company, owned by the Missouri Pacific.

At Vidalia, Louisiana, the Missouri Pacific and L. & A. deliver their freight direct and have direct interchange.

[fol. 171] By Mr. Roberts:

"Q. What I want to know is who stands the burden of delivery?"

"A. The delivering line making the delivery at its own expense. At Baton Rouge, Louisiana, the present practice is the Y. & M. V., L. R. & N., Southern Pacific and Gulf Coast lines all interchange their traffic direct at the expense of the delivering line. Merchandise is interchanged direct between the Y. & M. V., Southern Pacific, and Gulf Coast lines in joint freight house. Between the other lines it is interchanged by trap car, the delivering line assuming the expense involved in delivering its freight to its connection.

At Anchorage, Louisiana, the Gulf Coast Lines and the Southern Pacific interchange their traffic direct, the delivering line assuming the expense of making the delivery. Merchandise is interchanged in joint freight depot.

By Mr. Roberts:

"Q. Let me ask you a question there. You have now described the method and practice of interchange between carriers direct and where there is an intermediate switching line at Dubuque, Iowa; East Dubuque, Illinois; Savannah, Illinois; Clinton, Iowa; Rock Island, Ill.; Burlington, Iowa; Ft. Madison, Iowa; Hamilton, Illinois; Quincy, Illinois, Hannibal, Missouri; Louisiana, Missouri; Chaffee, Missouri; Memphis, Tennessee; Bridge Junction, Arkansas; Helena, Arkansas; Vicksburg, Mississippi; Natchez, Mississippi; Vidalia, Louisiana; Baton Rouge, Louisiana. Those are all points that are situated on the Mississippi River, are they not?"

"A. Yes; and I also included Anchorage."

"Q. That is also a point on the Mississippi River?"

"A. Yes sir."

"Q. And you have now described to the Examiner the manner of interchange at those Mississippi river points?"

"A. Yes sir."

"Q. Let me ask you as to New Orleans; where the car-
[fol. 172] riers interchange direct and do not avail themselves of an intermediate switching line, what do you say as to the practice generally at New Orleans? I am not asking now as to how many cases there are where an intermediate switching line is used, but where they interchange direct, which line assumes the burden and the duty of getting the traffic over to the other line?"

"A. The delivering line."

"Q. Is that true as to all interchange at New Orleans direct?"

"A. Yes sir."

"Q. Can you give the Interstate Commerce Commission information as to who bears the burden of switching service where two lines on through traffic use an intermediate switching line at that place?

"A. Yes, I will do that. The Public Belt performs the intermediate switching service between the T. & P. on the one hand and the N. O. G. N. on the other. The intermediate switching charge on freight traffic is paid and borne by the delivering carrier.

The Louisiville & Nashville performs intermediate switching service between the T. & P. on the one hand and the Louisiana Southern on the other. The intermediate switching on through traffic is paid and borne by the delivering carrier.

The Public Belt performs the intermediate switching service between the T. & P. on the one hand and the L. R. & N. on the other. Intermediate switching charge on
[fol. 173] through traffic is paid and borne by delivering carrier.

The Public Belt performs the intermediate switching service between the Texas & Pacific on the one hand and the Southern Railway on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs the intermediate switching service between the Missouri Pacific on the one hand and the L. R. & N. on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs the intermediate switching service between the Missouri Pacific on the one hand and the N. O. G. N. on the other, intermediate switching charge on traffic is paid and borne by delivering carrier.

The Public Belt performs the intermediate switching service between the Missouri Pacific on the one hand and the Southern Railway on the other, intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Louisville & Nashville performs intermediate switching service between the Missouri Pacific on the one hand and the Louisiana Southern on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Southern or Public Belt perform the intermediate switching service between the Louisville & Nashville on the one hand and the L. R. & N. on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Southern Pacific performs intermediate switching service between the Louisville & Nashville on the one hand and N. O. L. C. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Southern Railway performs the intermediate switching service between the Southern Pacific on the one hand and the N. O. G. N. on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

[fol. 174] The Public Belt performs the intermediate switching service between the Southern Pacific on the one hand and the L. R. & N. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Louisville & Nashville performs the intermediate switching service between the Louisiana Southern on the one hand, and the Missouri Pacific on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

The New Orleans Terminal Company performs the intermediate switching service between the Louisiana Southern on the one hand — theN. O. G. N. on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs th intermediate switching service between Louisiana Southern on the one hand, and the Mississippi Warrior Service on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The New Orleans Terminal Company performs the intermediate switching service between the Louisiana Southern on the one hand and the L. R. & N. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Louisville & Nashville performs the intermediate switching service between the Louisiana Southern on the one hand and the Texas & Pacific on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs intermediate switching service between the Southern Railway on the one hand and the Missouri Pacific on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs intermediate switching service between the Southern Railway on the one hand and the N. O. L. C. on the other; intermediate switching charge on traffic is paid and borne by delivering carrier.

The Texas & Pacific performs intermediate switching service between the Southern on the one hand and the N. O. L. C. on the other; intermediate switching charge on [fol. 175] through traffic is paid and borne by delivering carrier.

The New Orleans Terminal Company performs intermediate switching service between N. O. G. N. on the one hand and the L. R. & N. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs intermediate switching service between the N. O. G. N. on the one hand, and the I. C. Y. & M. V. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The New Orleans Terminal Company performs intermediate switching service between the N. O. G. N. on the one hand and the I. C. Y. & M. V. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs the intermediate switching service between the N. O. G. N. on the one hand and the Missouri Pacific on the other, intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs the intermediate switching between the N. O. G. N. on the one hand and the N. O. L. C. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Texas & Pacific performs intermediate switching service between the N. O. G. N. on the one hand and the N. O. L. C. on the other, intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Public Belt performs the intermediate switching service between the N. O. G. N. on the one hand and the L. R. & N. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The New Orleans Terminal Company performs the intermediate switching service between the N. O. G. N. on the one hand and the L. R. & N. on the other; intermediate switching charge on through traffic is paid and borne by de-
[fol. 176] livering carrier.

Merchandise at New Orleans is interchanged by dray or trap cars, and expense involved is borne by the delivering carrier.

I ascertained these facts by a personal examination on the ground at New Orleans as to interchange beteen different carriers.

I visited New Orleans and personally interrogated the agents of each one of the carriers.

At Cairo, Illinois, the present practice observed in the interchange of through carload traffic is as follows:

The Missouri Pacific delivers its freight direct to the Illinois Central and the Illinois Central delivers its freight direct to the Missouri Pacific.

The Missouri Pacific delivers its freight direct to the Mobile & Ohio and the Mobile & Ohio delivers its freight direct to the Missouri Pacific.

The Missouri Pacific delivers its freight direct to the Big Four and the Big Four delivers its freight direct to the Missouri Pacific.

The Illinois Central performs the intermediate switching service between the Missouri Pacific on the one hand and the Mississippi Warrior Service on the other, intermediate

switching charge on through traffic is paid and borne by the Missouri Pacific.

The Mississsippi Warrior Service delivers its freight direct to the Illinois Central and the Illinois Central delivers its freight direct to the Mississippi Warrior Service.

The Illinois Central performs the intermediate switching service between the Mississippi Warrior Service on the one hand and the Mobile & Ohio on the other; intermediate switching charge on through traffic is paid and borne by the Mobile & Ohio.

The Illinois Central performs the intermediate switching service between the Big Four on the one hand and the Mississippi Warrior Service on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

[fol. 177] The Big Four delivers its freight direct to the Illinois Central and the Illinois Central delivers its freight direct to the Big Four.

The Big Four delivers its freight direct to the Mobile & Ohio and the Mobile & Ohio delivers its freight direct to the Big Four.

The Illinois Central delivers its freight direct to the Mobile & Ohio and the Mobile & Ohio delivers its freight direct to the Illinois Central.

Merchandise is interchanged by dray or trap car, the expense being paid and borne by the delivering line.

At Paducah, Kentucky, the freight is all delivered direct between the N. C. & St. L., I. C. and C. B. & Q., at the expense of the delivering carrier. Merchandise is interchanged by trap car.

The practice at Evansville where a direct connection exists is for the delivering carrier to deliver its freight to its connection, at its expense, that is, at the expense of the delivering line.

Where the use of an intermediate switching line is involved, the Louisville & Nashville performs the intermediate switching service between the Big Four on the one hand and the Illinois Central on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Chicago & Eastern Illinois performs the intermediate switching service between the Louisville & Nashville on the

one hand and the Southern Railway on the other; intermediate switching charge on through traffic is shared.

I am now dealing with towns on the Ohio River.

The Chicago & Eastern Illinois performs the intermediate switching service between the L. H. & St. L. on the one hand and the Southern Railway on the other; intermediate switching charge on through traffic covered by through rate is shared.

The Louisville & Nashville performs the intermediate switching services between the Big Four on the one hand [fol. 178] and the Chicago & Eastern Illinois on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Louisville & Nashville and the Chicago & Eastern Illinois jointly perform the intermediate switching service between the Big Four on the one hand and the Southern Railway on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Louisville & Nashville performs the intermediate switching service between the Big Four on the one hand and the E. I. & T. H. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Chicago & Eastern Illinois performs the intermediate switching service between the Southern Railway on the one hand and the Big Four on the other; intermediate switching charge on through traffic is shared. By "shared," I mean divided.

At Jeffersonville, Indiana, direct interchange connections exist between the different lines and the freight is interchanged direct at the expense of the delivering carrier. Merchandise is interchanged by dray, the expense being paid and borne by the delivering carrier.

At New Albany, Indiana, the present practice observed in the interchange of through carload traffic is as follows:

It is all direct service there, and the delivering line assumes the expense of delivering freight to its connecting line.

At Louisville, Kentucky, the present practice observed in the interchange of through carload traffic is as follows: Where a direct connection exists, the delivering line effects delivery at its expense.

At Louisville, where the line-haul carriers use an intermediate switching line in moving traffic from one to the other, the Illinois Central performs the intermediate switching between the Baltimore & Ohio on the one hand and the Big Four on the other; intermediate switching charge on [fol. 179] through traffic is paid and borne by delivering carrier.

The Illinois Central performs intermediate switching service between the Baltimore & Ohio on the one hand and the C. & O. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Illinois Central performs intermediate switching service between the C. & O. on the one hand and the Monon on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Illinois Central performs intermediate switching service between the C. & O. on the one hand and the Big Four on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Louisville & Nashville performs the intermediate switching service between the C. & O. on the one hand and the L. H. & St. L. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Illinois Central performs intermediate switching service between the Monon on the one hand and the C. & O. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Illinois Central performs the intermediate switching service between the Southern Railway on the one hand and the Big Four on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Louisville & Nashville performs intermediate switching service between the Big Four on the one hand and the L. H. & St. L. on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Illinois Central performs intermediate switching service between the Big Four on the one hand and the Pennsylvania on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Illinois Central performs intermediate switching

[fol. 180] service between the Big Four on the one hand and the Southern Railway on the other. Intermediate switching charge on through traffic being paid and borne by delivering carrier.

Merchandise is interchanged by dray, the expense being paid and borne by the delivering carrier.

The next is Cincinnati. That is another Ohio River town.

At Cincinnati, Ohio, where direct interchange connections exist between the Cincinnati lines the delivering line delivers its freight to its connection, at its own expense.

Where switching line is used, as they do between the east and west side lines at St. Louis on through traffic, the Louisville & Nashville performs the intermediate switching service between the C. & O. south of the Ohio River on the one hand and the Pennsylvania on the other. Intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Baltimore & Ohio or Big Four performs the intermediate switching service between the Southern on the one hand and the Louisville & Nashville on the other; intermediate switching charge on traffic through is shared. By that, I mean they pro rate the expense.

The Baltimore & Ohio performs the intermediate switching service between the Southern Railway on the one hand and the Norfolk & Western on the other; intermediate switching charge on through traffic is shared.

The Baltimore & Ohio performs intermediate switching service between the Cincinnati Northern on the one hand and the Louisville & Nashville on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

Detroit is the next city. At Detroit, Michigan, where direct interchange connections exist, the practice is for the delivering line to deliver its freight to its connections at the expense of the delivering line. Where the use of an intermediate carrier is necessary I will detail those in-[fol. 181] stances and state how the intermediate expense is taken care of.

The Wabash performs the intermediate transfer service between the Canadian Pacific Railway on the one hand and

the Detroit & Toledo Shore line on the other; the expense for the service on through traffic is paid and borne by the delivering carrier.

The Wabash performs the intermediate transfer service between the Canadian Pacific Railway on the one hand and the Grand Trunk on the other; the expense for the service on through traffic is paid and borne by the delivering carrier.

The Wabash performs the intermediate transfer service between the Canadian Pacific Railroad and the New York Central Lines, the expense for the service on through traffic is paid and borne by the delivering carrier.

The Wabash performs the intermediate transfer service between the Canadian Pacific Railway on the one hand and the Pennsylvania on the other; the expense for the service on through traffic is paid and borne by the delivering carrier.

The Pere Marquette performs the intermediate transfer service between the Canadian Pacific Railway on the one hand and the Pennsylvania on the other; the expense for the service on through traffic is paid and borne by the delivering carrier.

The Grand Trunk performs the intermediate switching service between the Detroit Terminal on the one hand and the Detroit & Toledo Shore Line on the other; intermediate switching charges on through traffic is paid and borne by delivering carrier.

The Wabash performs the intermediate switching service between the D. T. & I. on the one hand and the D. & T. S. L. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Wabash performs the intermediate switching service between the D. T. & I. on the one hand and the Grand Trunk on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Wabash performs intermediate switching service [fol. 182] between the D. T. & I. on the one hand and the New York Central Lines on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Grand Trunk performs the intermediate switching service between the Pere Marquette on the one hand and

the Detroit & Toledo Shore Line on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

Merchandise is interchanged by dray or trap car; the expense involved being paid and borne by the delivering carrier.

At Toledo, Ohio, the present practice observed in the interchange of through carload traffic is as follows: Where direct track connection exists it is the practice for the delivering carrier to make delivery to its connections at the expense of the delivering carrier.

At Toledo there is also a practice in effect called puller service. By that I mean that several of the Toledo lines have put an arrangement of this kind in effect: They agree to share the expense of the interchange service which is performed by the power of either one of the other lines, and the expense at the end of each month is shared, or one of the lines will furnish the power one month and its connection the other month. They have different arrangements, but they are all reciprocal and, are briefly stated, an assigning of power to the straight interchange service on the basis of reciprocal treatment of the expense involved. That is, the expense is divided between the two lines at interest.

The Toledo Terminal is a belt line connecting with all of the Toledo Trunk line carriers.

It performs service similar to the Terminal Railroad Association at St. Louis.

And I might state that the interchange of traffic through the Toledo Terminal is in excess of one million cars a year.

The Toledo Terminal performs the intermediate switching service between the Ann Arbor on the one hand and the Big Four on the other; intermediate switching charge [fol. 183] on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Ann Arbor on the one hand and the Detroit & Toledo Shore Line on the other; intermediate switching charge on the through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Ann Arbor on the one hand and the D. T. & I. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Wheeling & Lake Erie performs the intermediate switching service between the Ann Arbor on the one hand and the New York Central Lines on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Ann Arbor on the one hand and the Nickel Plate on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Ann Arbor on the one hand and the Pere Marquette on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Ann Arbor on the one hand and the Toledo & Western on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Wheeling & Lake Erie performs the intermediate switching service between the Ann Arbor on the one hand and the Wabash on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Baltimore & Ohio on the one hand and the D. T. & I. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switch-[fol. 184] ing service between the Baltimore & Ohio on the one hand and the Hocking Valley on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Baltimore & Ohio on the one hand

and the Nickel Plate on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Baltimore & Ohio on the one hand and the Toledo & Western on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Big Four on the one hand and the Detroit & Toledo Shore Line on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Big Four on the one hand and the D. T. I. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier. Both lines also deliver some traffic to each other direct.

The Toledo Terminal performs the intermediate switching service between the Big Four on the one hand and the N. K. P. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs intermediate switching service between the Big Four on the one hand and the Pere Marquette on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Big Four on the one hand and the Toledo & Western on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Big Four on the one hand and the [fol. 185] Wabash on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

Toledo Terminal performs the intermediate switching service between the Big Four on the one hand and the Wheeling & Lake Erie on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. & T. S. L. on the one hand and the Michigan Central on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Detroit & Toledo Shore Line on the one hand and the New York Central Lines on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Detroit & Toledo Shore Line on the one hand and the New York Central Lines on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. & T. S. L. on the one hand and the N. K. P. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. & T. S. L. on the one hand and the Pere Marquette on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. & T. S. L. on the one hand and the Toledo & Western on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Detroit & Toledo Shore Line on the one hand and the Wabash on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. T. & I. on the one hand and the Hocking Valley on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier. [fol. 186] The Toledo Terminal performs the intermediate switching service between the D. T. & I. on the one hand and the Michigan Central on the other, intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. T. & I. on the one hand and the New York Central lines on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. T. & I. on the one hand and the N. K. P. on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

Toledo Terminal performs the intermediate switching service between the D. T. & I. on the one hand and the Pennsylvania on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. T. & I. on the one hand and the Pere Marquette on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the D. T. I. on the one hand and the Toledo & Western on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal Company performs the intermediate switching service between the D. T. I. on the one hand and the Wabash on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the Intermediate switching service between the Hocking Valley on the one hand and the Toledo Western on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the New York Central lines on the one [fol. 187] hand and the Pere Marquette on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the New York Central lines on the one hand, the Toledo & Western on the other, intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Big Four performs the intermediate switching service between the Erie on the one hand and the Wheeling & Lake Erie on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Michigan Central on the one hand and the NKP on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Michigan Central on the one hand and the Pere Marquette on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Michigan Central on the one hand and the Toledo Western on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Michigan Central on the one hand and the Wabash on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs intermediate switching service between the N. K. P. on the one hand and the Pennsylvania on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the N. K. P. on the one hand and the Pere Marquette on the other, the intermediate switching [fol. 188] charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the N. K. P. on the one hand and the Toledo & Western on the other, intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the N. K. P. on the one hand and the Wheeling & Lake Erie on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Pennsylvania on the one hand and the Toledo & Western on the other. Intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Pennsylvania on the one hand and the Wabash on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Pere Marquette on the one hand and the Toledo & Western on the other; the intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Pere Marquette on the one hand and the Wabash on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Wheeling & Lake Erie performs the intermediate switching service between the Pennsylvania on the one hand and the Wabash on the other; intermediate switching charge on through traffic is paid and borne by the delivering line.

Wheeling & Lake Erie performs the intermediate switching service between the Pere Marquette on the one hand and the Wabash on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Toledo Terminal performs the intermediate switch-
[fol. 189] ing service between the Wabash on the one hand and the Toledo & Western on the other; the intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Toledo Terminal performs the intermediate switching service between the Wheeling & Lake Erie on the one hand and the Toledo & Western on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

Merchandise is interchanged by trap car or dray, the expense being paid and borne by the delivering line.

At Cleveland, Ohio, the present practice observed in the interchange of through carload traffic is as follows: Where

a direct interchange connection exists the delivering line delivers its freight to its connection, at its expense. I will now detail the instances where an intermediate switching carrier is used at Cleveland, Ohio.

The Cleveland Short Line performs the intermediate switching service between the Pennsylvania on the one hand and the New York Central lines on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Big Four performs the intermediate switching service between the Erie on the one hand and the New York Central Lines on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Big Four performs the intermediate switching service between the Wheeling & Lake Erie on the one hand and the Erie on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

Merchandise is interchanged by dray; the expense being paid and borne by the delivering carrier.

At Columbus, Ohio, the present practice observed in the interchange of through carload traffic is as follows: Where a direct interchange connection exists it is the practice for the delivering line to make its delivery to its connection at the expense of the delivering carrier.

[fol. 190] I found no instance where an intermediate switching line was used to effect delivery of freight at Columbus, Ohio. Merchandise is interchanged by trap car; the delivering line making the delivery.

At Indianapolis, Indiana, all traffic interchanged between connections is handled by the Indianapolis Union Railway. The Indianapolis Union Railway is a belt line connecting with all of the carriers serving Indianapolis, Indiana, and it performs interchange of freight between all of the carriers serving Indianapolis, and it is the practice in Indianapolis for the delivering carrier to assume the expense of making the delivery of its freight to its connections, using the Indianapolis Union Railway's services to effect that delivery; in other words, the delivering line pays the Indianapolis Union Railway for performing the intermediate service to reach its connections.

Merchandise is interchanged by dray or trap car; expense involved is paid and borne by the delivering line.

Ft. Wayne, Indiana; at that point the present practice observed in the interchange of through carload traffic is as follows: All of the lines serving Ft. Wayne have direct interchange connections and the delivering line makes delivery of the freight, at its expense. The merchandise is interchanged by dray or trap car; the expense involved is paid and borne by the delivering line.

At Springfield, Illinois, the present practice observed in the interchange of through carload traffic is as follows: Where a direct connection exists the delivering line makes delivery and assumes the expense incident thereto. I will now detail the few instances where the services of an intermediate switching line are necessary.

The C. P. & St. L. performs the intermediate switching service between the C. I. & W. on the one hand and the Wabash on the other; the intermediate charge on through [fol. 191] traffic is paid and borne by delivering carrier.

The Illinois Central performs the intermediate switching service between the Illinois Traction System on the one hand and the Chicago & Alton on the other; the intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Springfield Terminal performs the intermediate switching service between the Illinois Traction System on the one hand and the Chicago & Alton on the other; intermediate switching charge on through traffic is paid and borne by delivering carrier.

The Illinois Central performs the intermediate switching service between the Illinois Traction System on the one hand and the C. P. & St. L. on the other; the intermediate switching on through traffic is paid and borne by delivering carrier.

The Springfield Terminal performs the intermediate switching service between the Illinois Traction System on the one hand and the C. P. & St. L. on the other; the intermediate switching charge on through traffic is paid and borne by delivering carrier.

Merchandise is interchanged by dray, the expense being paid and borne by the delivering line.

At East St. Louis, Illinois, the present practice observed in the interchange of through carload traffic is as follows: Where a direct interchange connection exists the delivering line makes delivery at its expense.

I am talking about traffic that is interchanged between eastern lines in East St. Louis, Illinois, district, and not talking about interchange between the east side lines on the one hand at East St. Louis and their western connections west of the river on the other.

I am talking about the present practice of the east side lines in interchanging their through traffic. I detailed the practice where direct interchange connections exist. I will detail now where the use of an intermediate switching line is necessary.

When I mention the Terminal, I mean the Terminal Railroad Association and its subsidiaries. I shall not designate [fol. 192] the Wiggins Ferry as a part of the Terminal, but I use it as a general term.

The Terminal Railroad Association performs intermediate switching service between the Baltimore & Ohio on the one hand and the Chicago & Eastern Illinois on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediae switching service between the Baltimore & Ohio on the one hand and the Alton & Eastern on the other; intermediate switching charge on through traffic covered by through rates being paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Baltimore & Ohio on the one hand and the Big Four on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Baltimore & Ohio on the one hand the the Illinois Central on the other, intermediate switching charge on through traffic being paid and borne by the receiving line.

That is the same Company that performs the intermediate service between the east side and west side lines across the river.

The Alton & Southern performs intermediate switching between the Baltimore & Ohio on the one hand and the Illinois Central on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Baltimore & Ohio and the Illinois Traction System; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Baltimore & Ohio on the one hand and the Mississippi Warrior Service on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service [fol. 193] between the Baltimore & Ohio on the one hand and the Missouri Pacific (East) on the other—when I say "East" I mean the east side line of the Missouri Pacific that goes down the east bank of the Mississippi River—the intermediate switching charge on through traffic is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Baltimore & Ohio on the one hand and the Missouri Pacific (East) on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Baltimore & Ohio on the one hand and the Mobile & Ohio on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Baltimore & Ohio on the one hand and the Pennsylvania on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Baltimore & Ohio on the one hand and the Cotton Belt on the other; the intermediate switching charge on through traffic is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Baltimore & Ohio on the one hand and the Cotton Belt on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Baltimore & Ohio on the one hand and the N. P. on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Baltimore & Ohio on the one hand and the N. P. on the other; the intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service [fol. 194] between the Baltimore & Ohio on the one hand

and the Wabash, East, on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Alton and the Alton & Southern; intermediate switching charge on through traffic is paid and borne by the receiving line. A direct connection is being established and will be used for the future, enabling the Chicago & Alton to deliver its freight to the Alton & Southern and the Alton & Southern deliver its freight to the Chicago & Alton.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Chicago & Eastern Illinois on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Big Four on the other, intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Illinois Central on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Illinois Traction System on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Mississippi Warrior Service on the other; intermediate switching charge on through traffic covered by through rates being paid and borne by the Chicago & Alton in both directions.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Missouri Pacific, East, on the other; intermediate switching charge on through traffic is paid and borne by the re-
[fol. 195] ceiving line.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Mo-

bile & Ohio on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Pennsylvania on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Alton on the one hand and the Cotton Belt on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Alton and Southern; intermediate switching charge on through traffic is paid and borne by the receiving line. A direct connection between the Alton & Southern and Chicago & Eastern Illinois is about completed, which will enable the two lines in the future almost to interchange their freight direct.

That Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Burlington, East, intermediate switching charge on through traffic paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois on the one hand and the A. & E. on the other; intermediate switching charge on traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois on the one hand and the Big Four on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois on the one hand and [fol. 196] the Illinois Central on the other, intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois on the one hand and the Illinois Traction System on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Louisville

& Nashville; intermediate switching charge on the through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Mississippi Warrior Service; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Missouri Pacific, East; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Mobile & Ohio; intermediate switching charge on through traffic covered is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Pennsylvania; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Cotton Belt; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Southern; intermediate switching charge on through traffic is paid and borne by the receiving line.

[fol. 197] The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the N. P.; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Chicago & Eastern Illinois and the Wabash, East; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Burlington, East, on the one hand and the Alton & Southern on the other; the intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Burlington, East, and the Alton & Eastern, intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Burlington, East, and the Illinois Central; the intermediate switching charge is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between the Burlington, East, on the one hand and the Illinois Traction System on the other; intermediate switching charge is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between the Burlington, East, on the one hand and the Mississippi Warrior Service on the other; intermediate switching charge is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between the Burlington, East, and the Missouri Pacific, East; intermediate switching charge is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between Burlington, East, on the one hand and the Mobile & Ohio on the other; intermediate switching charge is paid and borne by the receiving carrier.

[fol. 198] The Terminal performs intermediate switching service between the Burlington, East, on the one hand and the Pennsylvania on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Burlington, East, on the one hand and the Cotton Belt on the other, intermediate switching charge is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between the Burlington (East) on the one hand and the Nickel Plate on the other; intermediate switching charge is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between the Burlington, east, on the one hand and the Wabash, east, on the other; intermediate switching charge is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between the Big Four and the Alton & Southern intermediate switching charge is paid and borne by the receiving carrier. Direct connection is being completed between the Big Four and the Alton & Southern, which will enable both lines in the future to interchange their freight direct.

The Terminal performs intermediate switching service between the Big Four and the A. & E., intermediate switching charge is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between the Big Four on the one hand and the Illinois Traction System on the other; intermediate switching — is paid and borne by the receiving carrier.

The Terminal performs intermediate switching service between the Big Four on the one hand and the Mississippi Warrior Service on the other; intermediate switching charge is paid and borne by the receiving carrier.

The Terminal or the Southern performs intermediate [fol. 199] switching service between the Big Four on the one hand and the Mobile & Ohio on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Big Four on the one hand and the Pennsylvania on the other, intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Big Four on the one hand and the Cotton Belt on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Big Four on the one hand and the Nickel Plate on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Big Four on the one hand and the Wabash, east, on the other, intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Central on the one hand and the Illinois Traction System on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Central on the one hand and the Mississippi Warrior Service on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Central on the one hand and the Pennsylvania on the other; the intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Illinois Central on the one hand and the Pennsylvania on the other; the intermediate switching [fol. 200] charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Central on the one hand and the Nickel Plate on the other; the intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Illinois Central on the one hand and the Nickel Plate on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Central on the one hand and the Wabash, East, on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Alton & Eastern on the other; the intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching between the Illinois Traction System on the one hand and the Alton & Eastern on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Illinois Central on the other; the intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Illinois Traction System on the one hand and the Illinois Central on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction on the one hand and the Louisville & Nashville on the other; the intermediate switching charge on through traffic is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching [fol. 201] service between the Illinois Traction System on the one hand and the Louisville & Nashville on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Mississippi Warrior Service on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Missouri Pacific, east, on the other; the intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Illinois Traction System on the one hand and the Missouri Pacific (East) on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Mobile & Ohio on the other; intermediate switching charge on traffic is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Illinois Traction System on the one hand and the Mobile & Ohio on the other; the intermediate switching charge is, on traffic, paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Pennsylvania on the other; the intermediate switching is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Cotton Belt — the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Illinois Traction System on the one hand and the Pennsylvania on the other; intermediate [fol. 202] switching is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Illinois Traction System on the one hand and the Cotton Belt on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Nickel Plate on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Illinois Traction System on the one hand and the Wabash, east, on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Chicago & Alton on the other; intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Chicago & Eastern Illinois on the other; the intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Burlington, east, on the other; the intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Big Four on the other; the intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Illinois Traction System on the other; the intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Louisville & [fol. 203] Nashville on the other; intermediate switching charge being paid and borne by the receiving line.

The Alton & Southern performs intermediate switching between the Alton & Eastern on the one hand and the Louisville & Nashville on the other; intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Mississippi Warrior Service on the other; the intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Missouri Pacific, east, on the other; the intermediate switching charge being paid and borne by the receiving line.

The Alton & Southern performs intermediate switching between the Alton & Eastern on the one hand and the Mis-

souri Pacific, east, on the other; the intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching between the Alton & Eastern on the one hand and the Mobile & Ohio on the other; the intermediate switching charge being paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Alton & Eastern on the one hand and the Mobile & Ohio on the other; intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Alton & Eastern on the one hand and the Pennsylvania on the other; the intermediate switching charge being paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Alton & Eastern on the one hand and the Pennsylvania on the other; the intermediate switching charge being paid and borne by the receiving line.

[fol. 204] The Terminal performs intermediate switching service between the Alton & Eastern on the one hand and the Cotton Belt on the other; intermediate switching charge being paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Alton & Eastern on the one hand and the Cotton Belt on the other; intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Alton & Eastern on the one hand and the Wabash on the other, intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Louisville & Nashville on the one hand and the Mississippi Warrior Service on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Louisville & Nashville on the one hand and the Missouri Pacific, east, on the other; the intermediate switching is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Louisville & Nashville on the one hand and the Missouri Pacific, east, on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Louisville & Nashville on the one hand and the Mobile & Ohio on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Louisville & Nashville on the one hand and the Mobile & Ohio on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Louisville & Nashville on the one hand and the [fol. 205] Pennsylvania on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Louisville & Nashville on the one hand and the Pennsylvania on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal or the Alton & Southern perform intermediate switching service between the Louisville & Nashville on the one hand and the Cotton Belt on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Lousiville & Nashville on the one hand and the Nickel Plate on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Louisville & Nashville on the one hand and the Nickel Plate on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Louisville & Nashville on the one hand and the Wabash on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mississippi Warrior Service on the one hand and the Missouri Pacific, east, on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mississippi Warrior Service on the one hand and the Mobile & Ohio on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mississippi Warrior Service on the one hand and the Pennsylvania on the other; the intermediate switching charge is paid and borne by the receiving line.

[fol. 206] The Terminal performs intermediate switching service between the Mississippi Warrior Service on the one hand and the Cotton Belt on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mississippi Warrior Service on the one hand and the Southern on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mississippi Warrior Service on the one hand and the Nickel Plate on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mississippi Warrior Service on the one hand and the Wabash, east, on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Missouri Pacific, east, on the one hand and the Pennsylvania on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Missouri Pacific, east, on the one hand and the Pennsylvania on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Missouri Pacific, east, on the one hand and the Southern on the other, intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Missouri Pacific, east, on the one hand, and the Southern on the other, intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Missouri Pacific, east, on the one hand and the [fol. 207] Nickel Plate on the other; the intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Missouri Pacific, east, on the one hand

and the Southern on the other; the intermediate switching charge being paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Missouri Pacific, east, on the one hand and the Wabash, east, on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mobile & Ohio on the one hand and the Pennsylvania on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Mobile & Ohio on the one hand and the Pennsylvania on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mobile & Ohio on the one hand and the Cotton Belt on the other; the intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Mobile & Ohio on the one hand and the Cotton Belt on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Mobile & Ohio on the one hand and the Nickel Plate on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Mobile & Ohio on the one hand and the Nickel Plate on the other; the intermediate switching charge is paid and borne by the receiving line.

[fol. 208] The Terminal performs intermediate switching service between the Mobile & Ohio on the one hand and the Wabash, east, on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Nickel Plate on the one hand and the Pennsylvania on the other; the intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Nickel Plate on the one hand and the Pennsylvania on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Nickel Plate on the one hand and the Cotton Belt on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Nickel Plate on the one hand and the Cotton Belt on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Nickel Plate on the one hand and the Wabash, east, on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Pennsylvania on the one hand and the Cotton Belt on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Pennsylvania on the one hand and the Cotton Belt on the other; the intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Pennsylvania on the one hand and the Wabash, [fol. 209] east, on the other; intermediate switching charge on traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Cotton Belt on the one hand and the Southern on the other; intermediate switching charge is paid and borne by the receiving line.

The Alton & Southern performs intermediate switching service between the Cotton Belt on the one hand and the Southern on the other; intermediate switching charge is paid and borne by the receiving line.

The Terminal performs intermediate switching service between the Cotton Belt on the one hand and the Wabash, east, on the other; intermediate switching charge is paid and borne by the receiving line.

Merchandise is interchanged by dray; occasionally by trap car. The expense involved is paid and borne by the receiving line.

In the Alton Terminal, referring now to Alton, Illinois, and not dealing with the west side of the river at West

Alton, the eastern lines in the Alton, Illinois, district have direct connections one with the other, and it is the practice for the delivering line to deliver freight to its connections at its expense. Merchandise is interchanged by dray or trap car, the expense involved being paid and borne by the delivering line.

At St. Louis, where the west side lines have direct connections, it is the practice for the delivering line to effect delivery of its freight to its connections, assuming the expense incident thereto. Where no direct connection exists and the services of an independent or separate switching line are necessary to effect delivery, the practice varies. Some of the delivering lines pay the intermediate switching expense; while in the other instances the receiving line pays.

There are no instances where one line assumes the burden of effecting delivery both ways, as there is across the river at St. Louis, or anywhere in the United States that I have been able to find.

[fol. 210] Under the practice at St. Louis, the Terminal Railroad Association performs intermediate switching service between the Frisco on the one hand and the Mississippi Warrior Service on the other; the intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Terminal Railroad Association performs intermediate switching service between the Frisco on the one hand and the Illinois Traction System on the other; the intermediate switching charge on through traffic is paid and borne by the Illinois Traction System on traffic moving in both directions.

The Terminal performs intermediate switching service between the Frisco on the one hand and the Burlington on the other; intermediate switching charge on through traffic is paid and borne by the delivering carrier.

The Terminal performs intermediate switching service between the Frisco on the one hand and the Rock Island on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching between the Frisco on the one hand and the Katy on the other;

intermediate switching charge on through traffic is paid and borne by the receiving line.

The Terminal performs intermediate switching between the Frisco one the one hand and the Wabash, north, on the other; intermediate switching charge on through traffic is paid and borne by the receiving line.

At St. Louis the Terminal Railroad Association performs intermediate switching service between the Missouri Pacific on the one hand and the Burlington (west) on the other; intermediate switching charge on traffic is paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Missouri Pacific on the one hand and the Chicago, Rock Island & Pacific on the other; intermediate switching charge on the traffic is paid and borne by the receiving line.

[fol. 211] At St. Louis the Terminal performs intermediate switching between the Missouri Pacific on the one hand and the Missouri-Kansas-Texas on the other; intermediate switching charge being paid and borne by the delivering line.

At St. Louis the Terminal performs intermediate switching between the Missouri Pacific on the one hand and the Mississippi Warrior Service on the other; intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Missouri Pacific on the one hand and the Illinois Traction System on the other; intermediate switching charge in both directions being paid and borne by the Illinois Traction System.

I am speaking now about the practice at St. Louis, Missouri, in handling through traffic.

At St. Louis the Terminal performs intermediate switching on traffic between the Katy on the one hand and the Rock Island on the other; intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Katy on the one hand and the Wabash, west, on the other; the intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Katy on the one hand and the Mississippi

Warrior Service on the other; intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Katy on the one hand and the Illinois Traction System on the other; the intermediate switching charge being paid and borne by the Illinois Traction System in both directions.

At St. Louis the Terminal performs intermediate switching between the Katy on the one hand and the Missouri Pacific on the other; the intermediate switching charge being paid and borne by the delivering line.

[fol. 212] At St. Louis the Terminal performs intermediate switching between the Katy on one hand and the Frisco on the other; intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Rock Island on the one hand and the Burlington (West) on the other; intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Rock Island on the one hand and the Illinois Traction System on the other; the intermediate switching charge being paid and borne by the Illinois Traction System in both directions.

At St. Louis the Terminal performs intermediate switching between the Rock Island on the one hand and the Missouri Pacific on the other; intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Rock Island on the one hand and the Frisco on the other; intermediate switching charge being paid and borne by the delivering line.

[fol. 213] At St. Louis the Terminal performs intermediate switching between the Rock Island and the Katy; intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Rock Island and the Mississippi Warrior Service; the intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs intermediate switching between the Rock Island and the Wabash north and

west, intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Terminal performs the intermediate switching between the Burlington (west) and the Illinois Traction System, intermediate switching charge being paid and borne by the Illinois Traction System on traffic moving in both directions.

At St. Louis the Terminal performs intermediate switching between the Burlington (west) and the Mississippi Warrior Service, the intermediate switching charge being paid and borne by the receiving line.

At St. Louis the Burlington (west) delivers its freight to the Wabash and the Wabash delivers its freight to the Burlington (west).

At St. Louis the Terminal performs intermediate switching between the Illinois Traction System and the Mississippi Warrior Service; intermediate switching expense being paid and borne by the Illinois Traction System on traffic moving in both directions.

At St. Louis the Terminal performs intermediate switching between the Wabash and the Illinois Traction system; intermediate switching expense being paid and borne by the Illinois Traction System on traffic moving in both directions.

At St. Louis the Terminal performs intermediate switching between the Wabash and the Mississippi Warrior Service; intermediate switching expense being paid and borne by the receiving line.

[fol. 214] I covered every condition that existed, every interchange condition, as between all of the lines to each given point. I did not omit any steam railroad.

At Chicago, where direct connections exist, it is the practice for the delivering line to effect delivery of its freight to its connections, assuming the expense incident to performing that service. Where direct connection does not exist and it is necessary to use the service of a belt or switch line, it is the universal custom in the Chicago district for the delivering line to assume the expense of effecting the delivery of its through traffic to its connections. There are several Belt lines in the Chicago district, the Belt Railway, the Indiana Harbor Belt, the Chicago Junction, the Chicago

River & Indiana, the Baltimore & Ohio Chicago Terminal Transfer, and the Illinois Northern.

I will now detail the instances where in interchanging traffic in the Chicago district the use of an intermediate switching line is necessary:

The B. & O. C. T. performs intermediate switching service between the A., T. & S. F. and the B. & O.; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service from the A., T. & S. F. to the Baltimore & Ohio, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A., T. & S. F. and the Chicago & Eastern Illinois, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A., T. & S. F. Railway and the Erie, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A., T. & S. F. and the Chicago & Northwestern, intermediate switching charge being paid and borne by the delivering line.

The Indiana Harbor Belt performs intermediate switching service from the Chicago & Northwestern to the A., T. & [fol. 215] S. F. intermediate switching charge being paid and borne by the delivering line.

The Illinois Northern performs intermediate switching service on traffic the Santa Fe interchanges with the Burlington. The Burlington delivers its freight to the A., T. & S. F. via the Belt Railway, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A., T. & S. F. and the Chicago Great Western, while the C. C. W. also delivers some freight to the A., T. & S. F. through the Chicago Junction Railway, the intermediate expense being paid and borne by the delivering carrier.

The Belt Railway performs intermediate switching service between the A., T. & S. F. and the Monon, intermediate expense being paid and borne by the delivering carrier.

The Belt Railway performs intermediate switching service between the A., T. & S. F. and the Chicago, Rock Island & Pacific; intermediate expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A., T. & S. F. and the Illinois Central, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching on traffic which the A., T. & S. F. delivers to the Michigan Central, while the Michigan Central delivers its freight to the A., T. & S. F. through the Chicago River & Indiana, the intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A., T. & S. F. and the Soo, while the Soo Line delivers its freight to the A., T. & S. F. either through the Illinois Northern or through the Chicago River & Indiana, the intermediate expense in either case being paid and borne by the delivering line.

[fol. 216] The Belt Railway performs intermediate switching service on traffic the A. T. & S. F. delivers to the New York Central lines, while the New York Central lines deliver their freight to the A. T. & S. F. through the I. H. B., intermediate switching expense in all cases being paid and borne by the delivering carrier.

The Belt Railway performs intermediate switching service on traffic between the A. T. & S. F. and the Nickel Plate, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A. T. & S. F. and the Pennsylvania, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A. T. & S. F. and the Pere Marquette, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A. T. & S. F. and the Wabash, intermediate

switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the A. T. & S. F. and the C. & O. of Indiana, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate service between the Baltimore & Ohio and the Chicago & Alton, the Baltimore & Ohio also delivers some freight to the Alton through the B. & O. C. T.; the intermediate expense in all instances being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Baltimore & Ohio and the Chicago & Eastern Illinois, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the C. & O. and the Erie, intermediate switching service being paid and borne by the delivering line.

The B. & O. C. T. performs intermediate switching service on traffic which the Baltimore & Ohio delivers to the Northwestern, while the Northwestern delivers its freight [fol. 217] to the Baltimore & Ohio through the Belt Railway or Indiana Harbor Belt; intermediate switching expense being paid and borne by the delivering line.

The B. & O. C. T. performs intermediate switching service between the Baltimore & Ohio and the Burlington; while the Baltimore & Ohio also delivers some freight to the Burlington through the Belt Railway; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Baltimore & Ohio and the Chicago Great Western, while the Baltimore & Ohio also delivers some freight to the Great Western through the B. & O. C. T. The Great Western delivers some freight to the Baltimore & Ohio direct and in other instances uses the Chicago Junction Railway as the intermediate carrier, the Intermediate switching expense in all instances being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Baltimore & Ohio and the Monon, intermediate switching expense in all instances being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Baltimore & Ohio and the St. Paul while the Baltimore & Ohio also delivers some of its freight to the St. Paul through the B. & O. C. T. The St. Paul delivers its freight to the Baltimore & Ohio direct and in some instances uses the Indiana Harbor Belt. In all cases the intermediate switching being paid and borne by the delivering line.

The Baltimore & Ohio delivers its freight to the Rock Island and the Rock Island delivers its freight to the Baltimore & Ohio. The Baltimore & Ohio also uses the B. & O. C. T. in delivering its freight to the Rock Island; the intermediate expense being paid and borne by the delivering line.

The Baltimore & Ohio Chicago Terminal performs intermediate switching service from the Baltimore & Ohio to the Grand Trunk, intermediate switching expense being paid and borne by the delivering line.

[fol. 218] The B. & O. C. T. performs intermediate switching service between the Baltimore & Ohio and the Illinois Central (west) while the Belt Railway performs intermediate switching service on traffic from the Illinois Central (west) delivered to the Baltimore & Ohio; intermediate switching expense being paid and borne by the delivering line.

The Baltimore & Ohio delivers its freight direct to the Illinois Central (south) and also delivers some freight using the B. & O. C. T. as intermediate line, while the Illinois Central (south) delivers its freight to the Baltimore & Ohio using the Belt as intermediate carrier; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Baltimore & Ohio and the Michigan Central, intermediate switching expense being paid and borne by the delivering line.

The B. & O. C. T. performs intermediate switching service between the Baltimore & Ohio; and the Soo Line; the Indiana Harbor Belt performs intermediate service between the Baltimore & Ohio and the Soo Line—the Belt Railway performs intermediate switching on traffic the Baltimore & Ohio delivers to the Soo Line; intermediate switching expense being paid and borne by the delivering carrier.

The Belt Railway performs intermediate switching service on traffic which the Baltimore & Ohio delivers to the New York Central lines, while the B. & O. C. T. performs intermediate switching service on traffic delivered by the New York Central lines to the Baltimore & Ohio; intermediate switching service is paid and borne by the delivering line.

The Baltimore & Ohio delivers its freight to the Nickel Plate and the Nickel Plate uses the Belt Railway in delivering its freight to the Baltimore & Ohio; intermediate expense being paid by the delivering line.

The Belt Railway performs intermediate switching service between the Baltimore & Ohio and the Pennsylvania; intermediate expense being paid and borne by the delivering line.

[fol. 219] The B. & O. C. T. performs intermediate switching service between the Baltimore & Ohio and the Pere Marquette; intermediate expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Baltimore & Ohio and the Wabash; intermediate expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Baltimore & Ohio and the C. & O. of Indiana. The B. & O. C. T. performs intermediate switching service on traffic which the C. & O. of Indiana delivers to the B. & O., intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the C. & E. I. intermediate expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the Erie; intermediate expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Alton and the Northwestern. The Indiana Harbor Belt performs intermediate switching service on traffic the Northwestern delivers to the Alton; intermediate switching being paid and borne by the delivering line.

The Alton delivers its freight to the Burlington and the Burlington delivers its freight to the Alton using the Belt

Railway as intermediate carrier; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the Chicago Great Western; intermediate switching expense being paid and borne by the delivering line. The Chicago Junction performs intermediate switching service on traffic which the Great Western delivers to the Alton, intermediate switching expense being paid and borne by the delivering line.

[fol. 220] The Belt Railway performs intermediate switching service between the Alton and the Monon, intermediate switching expense being paid and borne by the delivering carrier.

The Belt Railway performs intermediate switching service between the Alton and the St. Paul. The Indiana Harbor Belt performs intermediate switching service on traffic which the St. Paul delivers to the Alton, intermediate charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the Rock Island; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the Illinois Central; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the Michigan Central; intermediate switching expense being paid and borne by the delivering line.

The Illinois Northern performs intermediate switching service between the Alton and the Soo Line; the C. R. & I. performs intermediate service on traffic which the Soo Line delivers to the Alton; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the New York Central. The Indiana Harbor Belt performs intermediate switching on traffic which the New York Central delivers to the Alton; intermediate switching expense being paid and borne by the delivering line.

The Alton delivers its freight to the Nickel Plate, while the Belt Railway or Indiana Harbor Belt performs intermediate switching service on traffic which the Nickel Plate delivers to the Alton; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the Pere Marquette; intermediate [fol. 221] switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the Wabash, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Alton and the C. & O. of Indiana, intermediate switching expense being paid and borne by the delivering line.

The Chicago & Eastern Illinois delivers its freight to the Erie and the Erie delivers its freight to the Chicago & Eastern Illinois. The Belt Railway performs intermediate switching service between the Eastern Illinois and the Erie; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the Northwestern. The Indiana Harbor Belt performs intermediate service on traffic which the Northwestern delivers to the Chicago & Eastern Illinois, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and Burlington, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the Great Western; intermediate switching expense being paid and borne by the delivering line. The Chicago Junction Railway performs intermediate switching service on traffic which the Great Western delivers to the Chicago & Eastern Illinois, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the St. Paul; the Indiana Harbor Belt performs intermediate service on traffic which the St. Paul delivers to the Chicago & Eastern Illinois; intermediate switching expense being paid and borne by the delivering lines.

[fol. 222] The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the Illinois Central; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the Soo Line. The C. R. & I. performs intermediate switching on traffic which the Soo Line delivers to the Eastern Illinois, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the New York Central lines. The Indiana Harbor Belt performs intermediate switching on freight which the New York Central lines deliver to the Eastern Illinois. Intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the Nickel Plate; intermediate expense being paid and borne by the delivering line.

The Belt performs intermediate service on traffic which the Pennsylvania (P. F. W. & C.) delivers to the Chicago & Eastern Illinois, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the Pennsylvania (Panhandle). The Pennsylvania (Panhandle) delivers its freight to the Chicago & Eastern Illinois. Intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the Wabash; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago & Eastern Illinois and the C. & O. of Indiana; intermediate switching expense being paid and borne by the delivering line.

[fol. 223] The Belt Railway performs intermediate switching service between the Erie and the Northwestern. The Indiana Harbor Belt performs intermediate switching service on traffic which the Northwestern delivers to the Erie, intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the Burlington; the C. R. & I. performs intermediate switching service on traffic which the Erie delivers to the Burlington; intermediate switching expense being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the Great Western, intermediate switching charge being paid and borne by the delivering line. The Great Western delivers its freight to the Erie.

The Belt Railway performs intermediate switching service from the Erie to the Monon. The Monon delivers its freight to the Erie, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the St. Paul, intermediate switching charge being paid and borne by the delivering line. The I. H. B. performs intermediate service between the Erie and the St. Paul. Intermediate switching charge being paid and borne by the delivering line.

The Indiana Harbor Belt performs intermediate switching service on traffic which the Rock Island delivers to the Erie, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the Grand Trunk, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching — between the Erie and the Illinois Central (south); the intermediate switching charge being paid and borne by the delivering line.

[fol. 224] The Belt Railway performs intermediate switching service between the Erie and the Michigan Central, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the Soo Line. The C. R. & I. performs intermediate switching on traffic which the Soo Line delivers to the Erie, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the New York Central. The Indiana Harbor Belt performs intermediate switching service on traffic which the New York Central lines deliver to the Erie, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the Nickel Plate, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the Pennsylvania, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the Pere Marquette; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the Wabash; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Erie and the C. & O. of Indiana, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service on freight which the Burlington delivers to the Northwestern, the intermediate switching charge being paid and borne by the delivering line.

[fol. 225] The Belt Railway performs intermediate switching service between the Northwestern and the Chicago Great Western. The Indiana Harbor Belt performs intermediate switching service on traffic which the Northwestern

delivers to the Great Western. The Chicago Junction performs intermediate service on traffic which the Great Western delivers to the Northwestern, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the Monon; the Indiana Habor Belt performs intermediate switching service on traffic which the Northwestern delivers to the Monon, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the St. Paul. The Indiana Harbor Belt performs intermediate switching service between the Northwestern and the St. Paul; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the Rock Island. The Indiana Harbor Belt performs intermediate switching service between the Northwestern and the Rock Island; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the Grand Trunk. The Indiana Harbor Belt performs intermediate switching service on traffic between the Northwestern and the Grand Trunk, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the Illinois Central. The Indiana Harbor Belt performs intermediate switching service on traffic which the Northwestern delivers to the Illinois Central, intermediate switching charge being paid and borne by the delivering line.

[fol. 226] The Belt Railway or the Indiana Harbor Belt performs intermediate switching service between the Northwestern and the Michigan Central; intermediate switching charge being paid and borne by delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the Soo Line. The Indiana Harbor Belt performs intermediate switching service from the Northwestern to the Soo Line. The B. & O. C. T.

performs intermediate switching service on traffic which the Soo Line delivers to the Northwestern; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the New York Central, the Indiana Harbor Belt performs intermediate switching service between the Northwestern and the New York Central, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the Nickel Plate. The Indiana Harbor Belt performs intermediate switching service from the Northwestern to the Nickel Plate. Intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the Pere Marquette. The Indiana Harbor Belt performs intermediate service on traffic which the Northwestern delivers to the Pere Marquette. Intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the Wabash. The Indiana Harbor Belt performs intermediate service on the tarffic which the Northwestern delivers to the Wabash; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Northwestern and the C. & O. of Indiana. [fol. 227] The Indiana Harbor Belt performs intermediate service on traffic which the Northwestern delivers to the C. & O. of Indiana; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the Great Western; the Chicago Junction Railway performs intermediate switching on traffic which the Great Western delivers to the Burlington, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the Monon, intermediate

switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the St. Paul; The I. H. B. performs intermediate switching service from the St. Paul to the Burlington; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the Chicago, Rock Island & Pacific. The B. & O. C. T. performs intermediate switching service on traffic which the Rock Island delivers to the Burlington; the Rock Island also delivers some traffic direct to the Burlington.

The Belt Railway performs intermediate switching service on traffic which the Burlington delivers to the Grand Trunk. The C. R. & I. performs intermediate switching service on traffic which the Grand Trunk delivers to the Burlington. The intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the Illinois Central. Intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the Michigan Central. The I. H. B. performs intermediate switching service on traffic which the Burlington delivers to the Michigan Central; the [fol. 228] intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service on traffic which the Burlington delivers to the Soo Line, intermediate switching charge being paid and borne by the delivering line. The Soo Line delivers its freight direct to the Burlington.

The Belt Railway performs intermediate switching service between the Burlington and the New York Central; the B. & O. C. T. performs intermediate switching service on traffic which the New York Central delivers to the Burlington. The Indiana Harbor Belt performs intermediate switching service on traffic which the New York Central delivers to the Burlington; intermediate switching service charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the Nickel Plate, intermediate switching charge being paid and borne by the delivering carrier. The Indiana Harbor Belt performs intermediate service on traffic which the Nickel Plate delivers to the Burlington, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the Pennsylvania, intermediate switching charge being paid and borne by delivering line.

The Burlington delivers its freight to the Pennsylvania and the Pennsylvania delivers its freight to the Burlington.

The Belt Railway performs intermediate switching service between the Burlington and the Pere Marquette, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Burlington and the Wabash, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching serv- [fol. 229] ice between the Burlington and the C. & O. of Indiana, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Great Western and the Monon, the Chicago Junction performs intermediate switching on traffic which the Great Western delivers to the Monon. Intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Great Western and the St. Paul. The Chicago Junction Railway performs intermediate switching on traffic which the Great Western delivers to the St. Paul. The Indiana Harbor Belt performs intermediate switching on traffic which the St. Paul delivers to the Great Western. Intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Great Western and the Rock Island. The Chicago Junction Railway performs intermediate switching on traffic which the Great Western delivers to the

Rock Island. Intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Great Western and the Grand Trunk. The Chicago Junction Railway performs intermediate switching on traffic which the Great Western delivers to the Grand Trunk, intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Great Western and the Illinois Central. The Chicago Junction performs intermediate switching on traffic which the Great Western delivers to the Illinois Central; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Chicago Great Western and the Michigan Central; the Chicago Junction performs intermediate switching on traffic the Chicago Great Western delivers to [fol. 230] the Michigan Central. The I. H. B. performs intermediate switching on traffic which the Michigan Central delivers to the Great Western; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Chicago Great Western and the Soo Line, the Chicago Junction performs intermediate switching between the Great Northern and the Soo Line. The Great Western delivers some traffic direct to the Soo Line and the Soo Line delivers all of its traffic direct to the Great Western. The intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Chicago Great Western and the New York Central, the Chicago Junction performs intermediate switching between the Great Western and the New York Central. The B. & O. C. T. performs intermediate switching from the Great Western to the New York Central. The I. H. B. performs intermediate switching from the New York Central and the Great Western, intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Chicago Great Western and the Nickel Plate; the Chicago Junction performs intermediate switching on

traffic the Chicago Great Western delivers to the Nickel Plate. The Chicago Great Western also delivers some traffic direct to the Nickel Plate. The I. H. B. performs intermediate switching on traffic the Nickel Plate delivers to the Chicago Great Western. Intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Chicago Great Western and the Pennsylvania, the Chicago Junction performs intermediate switching on traffic the Great Western delivers to the Pennsylvania; intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Chicago Great Western and the Pere Marquette; the Chicago Junction performs intermediate switching on traffic the Great Western delivers to the Pere Marquette; intermediate switching charge is paid and borne by the delivering line.

[fol. 231] The Belt Railway performs intermediate switching between the Chicago Great Western and the Wabash; the Chicago Junction performs intermediate switching on traffic the Great Western delivers to the Wabash; intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Great Western and the C. & O. of Indiana. The Chicago Junction performs intermediate switching on traffic the Chicago Great Western delivers to the C. & O. of Indiana. Intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Monon and the St. Paul. The I. H. B. performs intermediate switching on traffic the St. Paul delivers to the Monon; intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Monon and the Rock Island. The I. H. B. performs intermediate switching on traffic the Rock Island delivers to the Monon; intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching betwe-n the Monon and the Grand Trunk; intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Monon and the Illinois Central; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Monon and the Michigan Central. The Michigan Central delivers its freight direct to the Monon at Michigan City, Indiana. Intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Monon and the Soo Line; C. R. & I. performs intermediate switching from the Soo Line to the Monon; intermediate switching charge is paid and borne by the de-
[fol. 232] livering line.

The Belt Railway performs intermediate switching between the Monon and the New York Central. The I. H. B. performs intermediate switching from New York Central to the Monon. Intermediate switching charge is paid and borne by the delivering line.

Thereupon, at 5:55 o'clock P. M., September 21, 1925, an adjournment was had to ten o'clock A. M., September 22, 1925.

St. Louis, Mo., September 22, 1925—
10:00 o'clock a. m.

Met pursuant to adjournment.

COLLOQUY BETWEEN EXAMINER AND COUNSEL

"Mr. Roberts: May I have the letter which I read yesterday marked as exhibit number 9?

The Examiner: You read it in the record, didn't you?
[fol. 233] Mr. Roberts: Yes, but I would like to put this in evidence, Mr. Examiner.

(The letter was thereupon received in evidence, marked "Complainant's Exhibit No. 9, Witness Stanage.")

The Witness STANAGE, having been previously sworn, further testified as follows:

I will continue the testimony, detailing the instances in Chicago where traffic was interchanged, using the services of an intermediate switching line:

The Belt Railway performs intermediate switching service between the Monon and the Nickel Plate; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Monon and the Pennsylvania; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Monon and the Pere Marquette; intermediate switching charge being paid and borne by the delivering carrier.

[fol. 234] The Belt Railway performs intermediate switching between the Monon and the Wabash; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the Monon and the C. & O. of Indiana; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the St. Paul and the Rock Island; intermediate switching charge being paid and borne by the delivering line. The I. H. B. performs intermediate switching between the St. Paul and the Rock Island; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the St. Paul and the Grand Trunk. The I. H. B. performs intermediate switching on traffic the St. Paul delivers to the Grand Trunk. Intermediate switching charge is paid and borne by the delivering line.

The Belt Railway of the Indiana Harbor Belt performs intermediate switching service between the St. Paul and the Illinois Central; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway or the Indiana Harbor Belt performs intermediate switching between the St. Paul and the I. C.

Intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the St. Paul and the Soo Line. The I. H. B. performs intermediate switching on traffic the St. Paul delivers to the Soo Line. The B. & O. C. T. performs intermediate switching on traffic the Soo Line delivers to the St. Paul. Intermediate switching charge is paid and borne by the delivering line.

The Belt Railway or the Indiana Harbor Belt performs intermediate switching service between the St. Paul and the Illinois Central; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway or the I. H. B. performs intermediate switching between the St. Paul and the Nickel Plate, in- [fol. 235] termediate switching charge being paid and borne by the delivering line.

The Indiana Harbor Belt performs intermediate switching on traffic the St. Paul delivers to the Pere Marquette; intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the St. Paul and the Wabash. The I. H. B. performs intermediate switching on traffic the St. Paul delivers to the Wabash; intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching between the St. Paul and the C. & O. of Indiana, the I. H. B. performs intermediate switching on traffic the St. Paul delivers to the C. & O. of Indiana; intermediate switching charge is paid and borne by the delivering line.

The Rock Island delivers its freight to the Illinois Central and the Belt Railway performs intermediate switching on traffic which the Illinois Central delivers to the Rock Island, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway or the I. H. B. performs intermediate switching between the Rock Island and the Michigan Central; intermediate switching charge being paid and borne by delivering line.

The Belt Railway performs intermediate switching between the Rock Island and the Soo Line; the Chicago June-

tion Railway performs intermediate switching on traffic the Rock Island delivers to the Soo Line. The C. R. & I. performs intermediate switching service on traffic the Soo Line delivers to the Rock Island. Intermediate switching charge is paid and borne by the delivering line.

The Rock Island delivers its freight to the New York Central Lines and the New York Central Lines deliver their freight to the Rock Island; the I. H. B. is used as intermediate line on traffic the Rock Island delivers to the New York Central. Intermediate switching charge is paid and borne by delivering line.

[fol. 236] The Rock Island delivers its freight to the Nickel Plate, the Belt Railway performs intermediate switching from the N. K. P. to the Rock Island; intermediate switching charge being paid and borne by the delivering line.

The Chicago Junction-C. R. & I. perform intermediate switching on traffic which the Rock Island delivers to the Pere Marquette; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service on traffic the Pere Marquette delivers to the Rock Island; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Rock Island and the Wabash; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service on traffic which the Grand Trunk delivers to the Illinois Central (west). Intermediate switching charge being paid and borne by the delivering line. The Illinois Central (west) delivers its freight direct to the Grand Trunk.

The Belt Railway performs intermediate switching service between the Grand Trunk and the Michigan Central; intermediate switching charge being paid and borne by the delivering line. The I. H. B. performs intermediate switching on traffic the M. C. delivers to the Grand Trunk; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service on traffic the Grand Trunk delivers to the Soo Line, C. R.

& I. performs intermediate switching on traffic the Soo Line delivers to the Grand Trunk. The Illinois Northern performs intermediate switching on traffic the Soo delivers to the Grand Trunk; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Grand Trunk and the New York Central; the I. H. B. performs intermediate switching on traffic the New York Central delivers to the Grand Trunk. Intermediate switching charge being paid and borne by delivering line.

[fol. 237] The Belt Railway performs intermediate switching service between the Grand Trunk and the Nickel Plate; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Grand Trunk and the Pennsylvania, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Grand Trunk and the Pere Marquette, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Grand Trunk and the Wabash, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Grand Trunk and the C. & O. of Indiana, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Illinois Central and the Soo Line; intermediate switching charge being paid and borne by the delivering line. C. R. & I. performs intermediate switching on freight the Soo Line delivers to the Illinois Central, intermediate switching charge being paid and borne by the delivering line.

The I. H. B. performs intermediate switching service on traffic the Michigan Central delivers to the Illinois Central; intermediate switching charge being paid and borne by delivering line.

The I. H. B. performs intermediate switching service on traffic the New York Central delivers to the Illinois Central (west), intermediate switching — being paid and borne by the delivering line.

The Illinois Central delivers its freight to the Pennsylvania and the Pennsylvania delivers its freight to the Illinois Central (South). The Belt Railway performs intermediate switching service on traffic *on* which the Pennsylvania delivers to the Illinois Central (west); intermediate switching — being paid and borne by the delivering line.

[fol. 238] The Belt Railway performs intermediate switching service between the Illinois Central and the Pere Marquette; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Illinois Central and the Wabash; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service from the Illinois Central to the S. & O. of Indiana; intermediate switching charge being paid and borne by the delivering line. The C. & O. of Indiana delivers its freight direct to the Illinois Central.

The I. H. B. performs intermediate switching service between the Michigan Central and the Soo Line. The Belt Railway performs intermediate switching service from the Michigan Central to the Soo Line. The C. R. & I. performs intermediate switching on freight the Soo Line delivers to the Michigan Central; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Michigan Central and the Nickel Plate; the I. H. B. performs intermediate switching service on traffic the Michigan Central delivers to the Nickel Plate; intermediate switching charge being paid and borne by delivering line.

The Belt Railway performs intermediate switching service between the Michigan Central and the Pennsylvania (P. F. W. & C.) The I. H. B. performs intermediate switching service between the Michigan Central on the one hand and the Pennsylvania (P. F. W. & C.), intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Michigan Central and the Pennsylvania (PH), intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Michigan Central and the Pere Marquette, intermediate switching charge being paid and borne by the delivering line.

[fol. 239] The Belt Railway performs intermediate switching service between the Michigan Central and the Wabash; intermediate switching charge being paid and borne by the delivering line. The I. H. B. performs intermediate switching service from the Michigan Central to the Wabash, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Michigan Central and the C. & O. of Indiana, intermediate switching charge being paid and borne by the delivering line. The I. H. B. performs intermediate switching service from the Michigan Central to the C. & O. of Indiana, intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Michigan Central and the C. & O. of Indiana, intermediate switching charge being paid and borne by the delivering line. The I. H. B. performs intermediate switching service from the Michigan Central to the C. & O. of Indiana, intermediate switching charge being paid and borne by the delivering line.

The I. H. B. performs intermediate switching service between the Soo Line and the New York Central. C. R. & I. performs intermediate switching on traffic the Soo Line delivers to the New York Central. The B. & O. C. T. performs intermediate switching on traffic the New York Central delivers to the Soo Line, intermediate switching charge being paid and borne by the delivering line.

The I. H. B. performs intermediate switching service from the Soo Line to the Nickel Plate. The Chicago River & Indiana performs intermediate switching on traffic the Soo Line delivers to the Nickel Plate, intermediate switching charge being paid and borne by the delivering line. The Belt Railway performs intermediate switching service from the Nickel Plate to the Soo Line.

The Belt Railway performs intermediate switching service between the Soo Line and the Pennsylvania (P. F. W. & [fol. 240] C.); Soo Line delivers some traffic direct to the Pennsylvania (P. F. W. & C.) The Chicago River & Indiana performs intermediate service on traffic the Soo delivers to the Pennsylvania (P. W. & C.), intermediate switching charge being paid and borne by the delivering line.

The I. N. performs intermediate switching service between the Soo Line and the Pennsylvania (P. H.) The Chicago River & Indiana performs intermediate switching service on traffic the Soo Line delivers to the Pennsylvania (P. H.) intermediate switching charge being paid and borne by the delivering line.

The Chicago River & Indiana performs intermediate switching service from the Soo Line to the Pere Marquette. The Belt Railway performs intermediate switching on traffic the Pere Marquette delivers to the Soo Line; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Soo Line and the Wabash. The Chicago River & Indiana performs intermediate switching on traffic the Soo delivers to the Wabash. Intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Soo Line and the C. & O. of Indiana. The Chicago River & Indiana performs intermediate switching on traffic the Soo delivers to the C. & O. of Indiana; intermediate switching charge being paid and borne by the delivering line.

The New York Central Lines deliver their freight to the Nickel Plate and the Nickel Plate delivers its freight direct to the New York Central.

The Belt Railway performs intermediate switching service from the New York Central to the Pennsylvania (P. F. W. & C. division). The I. H. B. performs intermediate switching on the traffic the New York Central delivers to the Pennsylvania (P. F. W. & C. division). The Pennsyl- [fol. 241] vania (P. F. W. & C. division) delivers its freight direct to the New York Central Lines. The intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the New York Central and the Pennsylvania (P. H.). The I. H. B. performs intermediate switching on traffic the New York Central delivers to the Pennsylvania (P. H.) intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the New York Central and the Pere Marquette; the Indiana Harbor Belt performs intermediate switching on traffic the New York Central delivers to the Pere Marquette; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the New York Central and the Wabash; the Indiana Harbor Belt performs intermediate switching on traffic the New York Central delivers to the Wabash; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the New York Central and the C. & O. of Indiana; the I. H. B. performs intermediate switching on traffic the New York Central delivers to the C. & O. of Indiana; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Nickel Plate and the Pennsylvania; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Nickel Plate and the Pere Marquette; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Nickel Plate and the Wabash; intermediate switching charge being paid and borne by the delivering line.

[fol. 242] The Belt Railway performs intermediate switching service from the Nickel Plate to the C. & O. of Indiana; the C. & O. of Indiana delivers its freight direct to the Nickel Plate; intermediate switching charge is paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Pennsylvania and the Pere Marquette; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Pennsylvania and the Wabash; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service between the Pennsylvania and the C. & O. of Indiana; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway Company performs intermediate switching service between the Pere Marquette and the Wabash; intermediate switching charge being paid and borne by the delivering line.

The Belt Railway performs intermediate switching service on traffic which the Pere Marquette delivers to the C. & O. of Indiana; intermediate switching charge being paid and borne by the delivering line.

Merchandise traffic is interchanged between the carriers of the Chicago direct by dray, trap cars or by using the facilities of the Chicago Tunnel Company. Intermediate expense involved is paid and borne by the delivering line.

Exhibit No. 10 contains an explanation of the abbreviations which I have used in the information I have given in the record.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 10, Witness Stanage.")

[fol. 243] On Exhibit No. 2 will be found references to the outbound and inbound freight houses of the Columbia Terminal Company, of the Central Transfer Company, and of the Fidelity Transfer Company. These companies are not common carriers by railroad. They are not in any way connected with or subsidiaries of the Terminal Railroad Association. Their freight houses are termed sub-stations of the various eastern lines. At these points freight can be delivered to or received from any of the east side carriers, defendants in this proceeding. It is a fact as stated in the report of the Engineers' Committee, Exhibit No. 4, page 53, that "Such stations are really the St. Louis freight

stations of the east side lines." This is so because they receive freight from the shipping public for account of all of the east side carriers, and they also deliver freight to the public at St. Louis, Mo., for account of all of the east side carriers. They are recognized as their St. Louis freight stations.

They are stations for carload and for less than carload freight. They perform the same functions as to receipt and delivery of freight as would be performed at a freight station of the railroads if it was separate and independent in St. Louis or if it was a team track for carloads.

The Terminal Railroad and its subsidiaries handled during the month of March, 1920, 3,489 carloads of local traffic in and out of St. Louis and 127,693 carloads of through traffic. This through traffic was traffic passing through the St. Louis gateway. In September, 1920, the local traffic handled by the Terminal in and out of St. Louis was 3,245 carloads and the through traffic 116,113 carloads. The revenue accruing to the Terminal on the traffic handled in March, 1920, was $25,881.19 on the local traffic and $957,233.17 on the through traffic. In September, 1920, the revenue accruing to the Terminal was $31,134.33 on local traffic and $1,152,940.19 on through traffic.

[fol. 244] The Illinois Central rents certain team track facilities of the Pennsylvania Railroad at St. Louis. Mr. Jonah's statement that the Illinois Central used the Pennsylvania freight house was incorrect. The Illinois Central rents certain of their team track facilities.

On the average the amount which the West Side Lines are now paying the Terminal Railroad Association and which the West Side Lines now ask the East Side Lines to take care of, is 5 cents on first-class traffic and on a good many commodities will range from 2 to 3 cents per 100 pounds. It will be in excess of $5.00 or $6.00 per car. On a car of lumber weighing 56,000 pounds it would be $14.00 at 2½ cents. If it were a car of oil it would be over $18.00. I think it would average $15.00 per car. That is my off hand statement.

Cross-examination:

[fol. 245] Q. I would like to ask how the rates are made on a car of freight originating at Kansas City, Omaha, Lin-

coln, or Denver, destined to Boston, New York, Detroit, Cleveland, or in the reverse direction between these points of destination and points of origin?

Mr. Roberts: The complainants object to testimony along that line, as to the rates, because it is entirely immaterial under the allegations of the complaint. I will explain it to the Examiner, so you will understand this: Furthermore, the witness did not testify to anything about rates on direct. The testimony of the witness has dealt entirely with the practice among carriers of interchanging freight. In order that the Examiner may know why we make objections on those two grounds, I might say to the Examiner, you will understand our contention, under the allegations of the complaint first we admit that the west side lines have rails to East St. Louis by virtue of the ownership of the Terminal Railroad Association. On the other hand we contend that also the east side lines have rails into St. Louis, Missouri, by reason of their ownership in the Terminal Railroad Association. We contend, therefore, that on through traffic, since their rails end at St. Louis, Missouri, that under a proper practice, under a reasonable practice, under a just practice, that they should deliver the westbound traffic at the end of their rails, which are in St. Louis, Missouri.

On the other hand, we admit in the complaint that we should assume the burden under the law of delivering the eastbound traffic at the end of our rails, which are the Terminal rails, at East St. Louis, Illinois; that the practice of interchange should be reciprocal; that the point of interchange as to eastbound traffic should be at East St. Louis, Illinois, and we admit that as to westbound traffic the point of interchange should be at St. Louis, Missouri.

[fol. 246] Furthermore, even should we consider the Terminal Railroad Association as an independent carrier, which it is not, as we have shown by the facts in this record, we contend that a proper practice, a reasonable practice, a just practice and regulation under the applicable provisions of the Interstate Commerce Act which you are enforcing should require them to assume the burden of delivering the westbound traffic to us at St. Louis, Missouri; and we concede that under a proper, just and reasonable practice within the provisions of the Interstate Commerce law that we should continue, as we do now, to assume the burden,

under the law, of delivering eastbound traffic to our eastern connections, as we now do, at East St. Louis, Illinois.

Those are the issues raised in this case, Mr. Examiner, and there is nothing here whatsoever about rates, or divisions. We object to the testimony.

Exam. Disque: You want to present this case on a certain limited statement of facts, don't you?

Mr. Roberts: I want to present this case solely under the allegations made in our complaint, Mr. Examiner. The Bridge toll is but an incident; it is but a part of the duty under the law to deliver their traffic to their connections. So far as they are concerned they can do as the Chicago & Eastern Illinois does today. They can deliver the traffic to us at St. Louis, Missouri, by their own power, if they choose to do so. They can do it because the record shows they have today trackage rights into St. Louis, Missouri. In fact, the record shows, Mr. Examiner, that St. Louis, Missouri, is today a station on the line of the eastern carriers, for all purposes, the interchange of passengers, the interchange of mail, the interchange of express, local freight traffic, and partially on through traffic to certain points [fol. 247] close in, for all purposes St. Louis is a station on their line, but they say it is not a station on their line when it comes to delivering westbound traffic to their western connections. Now you understand our contention.

Mr. Northcutt: Mr. Roberts, are you complaining of the practice, as you call it, of interchanging traffic as to traffic moving from the east to the west on joint through rates which are divided on agreed per cents on East St. Louis?

Mr. Roberts: Our complaint covers all through traffic—in answer to your question—we do not think it is material but I will answer it, to be courteous only.

Mr. Northcutt. I am not asking about courtesy but I want the facts.

Mr. Roberts: I will give you the facts: We are complaining as to through traffic, westbound and eastbound, whether it moves on combination of locals or whether it moves under through joint rates. The question of the rates and divisions has nothing to do with a proper practice regarding the interchange of traffic. It is distinct and separate, and our complaint relates only to the matter of reasonable rules and regulations governing interchange between carriers at a terminal owned by all of them.

Mr. Northcutt: I understand you are not interested in divisions?

Mr. Roberts: In this case certainly not at all.

Mr. Northcutt: You do not care to affect our divisions or take any money away from us?

Mr. Roberts: We ask you to assume the burden under the law that the law places upon you of delivering to your connections at the end of your line in St. Louis, Missouri, westbound through traffic. If you do that I do not care whether [fol. 248] you bring it over with your own power, I do not care whether you use the Terminal Railroad Association, or whether you use an airplane; but we say it is your duty under the law to deliver westbound traffic to us at the end of your railroad, which is in St. Louis, Missouri.

Mr. Northcutt: Let us assume we have heretofore agreed to deliver it to you at East St. Louis and have agreed on divisions in the rates to cover that service——

Mr. Roberts: There could not be any agreement because this record shows that for twenty years we have been endeavoring to get away from the present practice at St. Louis, but by reason of the one little fact that they own a majority of the stock in the Terminal Railroad Association they have been able, over our protest, for twenty years, to force us to pay these bridge tolls. In other words, they have forced us to deliver the traffic to East St. Louis to them. They have forced us to come over there and get it, and we have been helpless for twenty years and protesting for twenty years. There could not be an agreement as to this interchange when the record shows we have been trying to get away from it for twenty years.

Mr. Northcutt: We have divisional arrangements that have been in effect for thirty years, originally promulgated by you and never changed and never suggested that they be changed——

Exam. Disque: Do you want all of this on the record?

Mr. Roberts: Yes.

Mr. Northcutt: Yes.

Mr. Larimore: He has no right to put that in the record.

Mr. Connell: Well, your associate has been testifying; now let us say a word.

Mr. Roberts: I am answering his question.

Mr. Northcutt: I am trying to find out what it is all about. [fol. 249] Mr. Roberts: If you read the complaint you

will understand it. I k w you understood it in your conference in Chicago——

Mr. Northcutt: I did aot.

Mr. Smith: Where did you get that?

Mr. Roberts: You sent it to the Frisco Railroad; mailed it to Mr. Stanage and he very kindly brought it to me. That is the conference at Chicago on March 24, 1925. You just mailed it to us. There it is. Besides, Mr. Examiner, the witness has not testified about rates and divisions. There is one rule of evidence that the Interstate Commerce Commission observes——

Exam. Disque: What is that?

Mr. Roberts: That is you cannot cross-examine a witness on something he has not testified to in chief.

Mr. Strasser: Even on that ground this cross-examination is perfectly proper. The witness has assumed to testify regarding the practice that prevails at a number of places with respect to the transfer of freight between roads. He has not said one word about the conditions at these points, or attempted to show that there is any similarity between the conditions at the points concerning which he has testified and the transfer at St. Louis or East St. Louis.

Mr. Roberts: That is another matter.

Mr. Strasser: I think my question is proper as going to the question of whether that testimony is competent or relevant. If there is no similarity in conditions then I submit all of this testimony about those transfers should be stricken from the record. If Mr. Roberts' objection means that this witness does not know what the conditions are, then I submitt that all of this testimony should be stricken. [fol. 250] Mr. Roberts: I agree with you, and I am willing for the witness to be cross examined.

Mr. Strasser: You agree the witness does not know what the conditions are at these points?

Mr. Roberts: Wait a minute; I am willing for the witness to be cross-examined as to his knowledge of the interchange and the practice of interchange between the carriers at these points. What we are objecting to is any cross-examination about rates, because rates are not involved in this case, have nothing to do with the case, and the witness has not testified anything about rates.

Exam. Disque: I think your second objection is technically all right. The first one of the points, are you willing to win or lose this case on the narrow ground presented in your view?

Mr. Roberts: Yes.

Exam. Disque: Why shouldn't we get all of the facts——

Mr. Roberts: We are willing to submit this case on the allegations of this complaint, and the matters raised now were carefully considered by west side lines.

Mr. Walker: Assuming that the rates west of the Mississippi River are sufficient today in comparison with the East Side line rates to pay a bridge toll, do you say that the Commission would have the right to change the point of interchange so as to make the divisions of the east side lines confiscatory?

Mr. Roberts: I think the decision of the Commission in the Pekin Union case answers your question.

Mr. Walker: I beg to differ with you.

Mr. Smith: That case is not decided as yet and is still pending.

Mr. Walker: They said there the divisions are the question involved, and say that the Commission cannot and [fol. 251] should not do indirectly what it would not and should not do directly.

Mr. Roberts: We have made our objection, and we have taken the pains to state to you our position clearly. We have gone into the matter with our eyes open and we stand on the complaint only.

Mr. Orcutt: May I call attention to page 4 of the complaint? Mr. Roberts says that freight rates and charges are not involved. On page 4, after referring to the transfer companies, the complainants allege that these transfer companies "and other defendants, seek, demand and receive for their services in transporting freight across the Mississippi River between the places aforesaid certain sums of money in the form of freight charges." That being injected into the issues here by the complaint, Mr. Strasser's question is certainly proper, when the inquiry is directed as to how the rates from western points are made, and as to whether or not those rates are made with a view of taking care of these transfer charges to the west side lines.

Mr. Roberts: The witness has not testified about rates.

Exam. Disque: From the Commission's standpoint, I would like to see this case gone into in full. We know what Mr. Roberts wants: He wants more money out of it and that is all. Is it going to injure you in any way to let this case be thrown open so we can hear the whole thing?

Mr. Larimore: So far as I am concerned, we have considered all of the points you have raised and this case should be submitted as we are submitting it now, without regard to rates and divisions.

Mr. Roberts: Yes, we like to have a decision during the present generation.

[fol. 252] Mr. Connell: And the Commission ought to have the assurance of all the west side lines that would be the end of it.

Mr. Larimore: We want the case decided during the lives now in being.

Exam. Disque: Have the east side lines any objection to confining the case to Mr. Robert's issues as he now states them on the hearing?

Mr. Walker: So far as the Southern lines are concerned, Mr. Examiner, we feel that the effect of changing the point of interchange materially affects the condition of the case, and we expect to show that if our divisions to East St. Louis are reduced by changing the present point of interchange it will result in confiscatory conditions as to us.

Exam. Disque: Has Mr. Roberts any objection to the Southern Railway showing that fact in opposition to——

Mr. Roberts: Of course, I have no control as to what the defendants show when they come on the stand, but it is not material under the petition: we will object to it, but right now, keeping in mind the question before the Examiner, we are objecting to testimony as to the rates by this witness for the reason he has not testified about rates on direct, and for the other reason. If they want to cross-examine him about his knowledge as to the facts of interchange and the practice at these various towns that he has testified to—and that is the only thing he has testified to—we have no objection. He will meet them there and will be glad to give them the basis of his information.

Mr. Strasser: And are you asking for a ruling on the question of whether or not the question of divisions——

[fol. 253] Mr. Roberts: No, th· question is up merely about the introduction of some testimony. We will meet that when we come to it.

Exam. Disque: I think Mr. Strasser's question is in regard to matters that he can bring out much better on direct."

[fol. 254] In my statement regarding the Keokuk situation I stated the Rock Island delivers its freight to the Wabash and the Wabash delivers its freight to the Rock Island; that both use the same yard facilities. At Hamilton, Illinois, the Wabash is a tenant of the Toledo, Peoria & Western and uses its rails. They have a joint freight station and the interchanging is made right at the station direct.

The Wabash enters Quincy, Illinois, over the tracks of the Burlington and both roads use a common terminal.

I gained my knowledge by interviewing agents at those points and discussing this matter with them. I went more into detail at the larger cities. I also had our traffic representatives develop information at the larger cities such as Indianapolis, Cincinnati, East St. Louis, Toledo and Detroit and I made an independent investigation of my own by visting each one of the agents of each one of the railroads at each one of these points and I interrogated him specifically regarding the method of interchange with each and every one of his connections and then I privately checked that data against the information that our traffic representatives had secured on an independent investigation of their own. In addition I visited Mr. Price Landers, the General Manager of the Indianapolis Union Railway, regarding the Indianapolis situation. I was referred to him by Mr. Sloan, the agent of the Pennsylvania at Indianapolis. I checked up the interchange at that terminal by interviewing Mr. Landers and verifying all that I had developed from the other agents personally.

At Toledo I interviewed Mr. Pearson, the General Manager of the Toledo Terminal, and verified all the information as being correct that I had obtained through different agents at Toledo. It also developed that there was a million cars of freight interchanged annually in the Toledo ter-

[fol. 255] minal, interchanged direct in a great many in-

stances, and where the Toledo Terminal acted as intermediate carrier the expense was paid and borne by the delivering line.

At Chicago I interviewed different belt lines and also took the matter up with the various traffic departments, so I checked the data that I secured by a definite inquiry of each agent at each one of these points, or the chief clerk to the agent, as to each and every specific instance—I did not ask him a general inquiry and end there. I made first a general inquiry and then I addressed myself to each and every specific instance that affected that situation. In other words, I had a list of the railroads and I asked him individually regarding the methods of interchange as to each and every one of these instances, and I have here in my files definite information as to the point where the interchange is effected and whether it is done by the power of the delivering line, or whether it is handled in what they term puller service, which principally applies in the Toledo district but is occasionally used in other districts. That is where they pool the power which performs the physical interchange.

The local agent or the chief clerk to the local office has information regarding the method of interchange and who assumes the expense; it is his duty to know that. I verified a great many of the instances, probably 95 per cent of them, by looking up certain tariffs that are issued that show that fact.

The interchange between the C., B. & Q. and T. P. & W. at Burlington, Iowa, is effected in the C. B. & Q. yard. The facilities of the C., B. & Q. and T. P. & W. at Burlington are joint.

[fol. 256] The situation as to the interchange of freight at each and every one of these points is identical in principal as the situation that applies here in question; by that I mean the question of interchange, the only difference in the situation between St. Louis-East St. Louis Terminal and any of these other terminals I visited, is the fact in the St. Louis-East St. Louis Terminal the west side lines on westbound traffic assume the intermediate expense assessed by the Terminal Railroad Association for hand-ing the traffic from the east side of the river to the west side of the river. The usual and customary practice at all of these other points is for the delivering line bringing the freight into the

terminal to effect delivery to its connection and if they do not interchange the traffic direct they have to provide the facility for interchanging the traffic or to pay an independent switching line the expense of that interchange in effecting the delivery.

As to the similarity between the interchange between the T. P. & W. and the Burlington at Burlington, Iowa, and the interchange between the Wabash and the Missouri Pacific at East St. Louis, the facts are these: The C., B. & Q. and the T. P. & W. have a joint yard at Burlington, Iowa. The Burlington delivers its freight to the T. P. & W. and the T. P. & W. delivers its freight to the Burlington in that yard. The expense of making the delivery is assumed by the delivering line.

[fol. 257] In the St. Louis-East St. Louis district, the Wabash, while having a station in St. Louis, St. Louis being a station on the Wabash, brings its freight to East St. Louis, east of the end of the rails in St. Louis, and there delivers freight to the Terminal Railroad Association, and refused to pay the interchange expense of the Terminal in transporting that car from East St. Louis to the Missouri Pacific at St. Louis.

They do not run over the terminal rails—they have a right to do it; they are a part owner in it—and they have trackage and they do handle business with their own power, but when it comes to through traffic they end at East St. Louis and deliver it to the terminal and do not pay the terminal to bring the freight to St. Louis, but force the west side line to pay that expense.

In the T. P. & W. instance the road-haul line delivers the freight to its connection, but in the East St. Louis-St. Louis situation the Wabash does not deliver its freight to the Missouri Pacific, but interchanges that freight short of destination and delivers it to a third line, and does not pay that third line to get the freight from East St. Louis to St. Louis. The arrangement should be the same at both places.

Q. As I understand your contention is that the conditions at the two places with respect to that illustration are identical?

A. The arrangement should be the same in both places. The object of my showing this data is to show that the

situation in the St. Louis-East St. Louis terminal is different than any other terminal in the United States. In other words, here the line that brings in the freight does not deliver its freight to the connections, and in that way it is dissimilar to the situation in other terminals, where they do deliver freight to connecting line.

Q. Conceding for the sake of argument that the practice of interchange is different, I am asking you whether or not [fol. 258] the conditions are similar or dissimilar to the conditions at Burlington, Iowa?

A. What conditions do you mean?

Q. The conditions under which the transfer occurs?

A. It is through traffic, and the difference in the practices at the two points is as I have outlined. I do not know what you mean by "conditions."

Q. I do not know how I can make it any plainer; is it your contention that the question of rates or the divisions of rates between the carriers does not enter into the complaint in question at all?

(Mr. Roberts:) I object to that. The complaint states that and it is a legal question and not for the witness to decide.

(Witness Stanage:) I asked him what he meant by "conditions." I merely detailed the practice at both points. I did not say anything about "conditions." I do not know what he means by "conditions."

(By Mr. Strasser:) What was the purpose of putting in that testimony if you did not pay any attention to the similarity or dissimilarity in conditions? What was the purpose of putting in that long testimony that you have been reading in the record here for pretty near a day?

A. I wanted to develop, and did develop, and put in the record, the practice of interchanging through traffic, carloads and less, at the respective points that I had detailed, to support my statement that it is the customary practice of railroads in the United States for the delivering carrier to deliver its freight to its connection at a junction point; where they have direct interchange facilities they interchange it at the expense of the delivering line. Where direct interchange facilities do not exist and it is necessary

to use a third line, an intermediate switching carrier, the customary practice is for the delivering carrier to assume the expense paid to that switching carrier for transporting its freight to its connecting line at that junction point.

[fol. 259] By Exam. Disque:

Q. Mr. Stanage, are the facts respecting interchange at St. Louis-East St. Louis similar to those prevailing at the various points that you have detailed in your testimony?

A. Yes, the physical handling of the freight is identical at all of these points, but the only difference is that at the St. Louis-East St. Louis terminal the West Side Lines are forced to assume the expense on traffic which their connections deliver to them. The actual physical handling of the cars, that is, placing them on the interchange track, taking them away, or handling them between the interchange connection of the road-haul lines by intermediate switching line, is absolutely identical at all of those points—the physical movement, but as I have mentioned, at the St. Louis-East St. Louis terminal the expense for that service is forced on the West Side Lines. There is this important difference here in the East St. Louis-St. Louis terminal as against the other terminals: At all of these terminals I visited the inbound road-haul line delivers its freight at the ends of its rails. In the St. Louis-East St. Louis district the Wabash—using the illustration Mr. Strasser mentioned—they do not bring the freight to the end of their rails at St. Louis but they bring that short of their rails, East St. Louis, and then use the Terminal to deliver the freight to the Missouri Pacific and force the West Side Lines to assume the intermediate expense; while at all of these other points the interchange is made at the ends of the rails of the different carriers.

[fol. 260] By Examiner Disque:

Q. That is not clear to me why you say the Wabash rails run into St. Louis.

A. Because it is a station on their railroad. They handle their own merchandise traffic into St. Louis. They have a part ownership in the Terminal Railroad Association, which the Supreme Court of the United States had decreed is a common terminal facility. They have trackage rights

on the terminal permitting them to run over the terminal, and they do it on St. Louis traffic. They publish rates to and from St. Louis. They accept freight at St. Louis and they deliver freight to consignees at St. Louis, and they perform all functions of a St. Louis carrier except bringing through traffic from the East to St. Louis.

It is also true that the Frisco in like manner reaches East St. Louis but the Frisco delivers their freight at the end of their rails at East St. Louis, and that is the difference. If we have freight for Detroit—a car of oil from Tulsa, Okla., to Detroit—the Frisco rails stop at St. Louis except for the common ownership of the terminal by the Frisco and the other lines—we consider East St. Louis is our terminal and the end of our rails, and we tell the terminal to take our freight for the Wabash to East St. Louis and we pay the terminal to take it there, and there we interchange with the Wabash for Detroit. In the reverse direction, taking a car of automobiles from Detroit to Tulsa, the Wabash does not bring it to the end of their rails in St. Louis, a station on their own railroad, and where they bring freight to their own trains, but they give that car of automobiles to the terminal at East St. Louis and force the Frisco to pay the expense of the terminal for handling the car from the Wabash in East St. Louis to the Frisco at St. Louis.

[fol. 261] The situation is this: according to our contention now, there are two junctions between the Wabash and the Frisco, one at East St. Louis and one at St. Louis, and interchange of freight could be made at either point. The Frisco has a direct connection with the Wabash at St. Louis at Ewing Avenue. As to certain westbound traffic the Wabash brings that freight to St. Louis and delivers it to the Frisco direct to St. Louis, but on through traffic, the preponderance of traffic interchanged, the Wabash does not bring it to St. Louis and interchange it but forces the Frisco to pay the Terminal for trans-river service from East St. Louis to St. Louis.

The business that the Wabash delivers to the Frisco direct at Ewing, Ohio, is business for the territory east of Springfield and north of Hermondale—Hermondale is on the St. Louis-Memphis line. For example, a shipment of automobiles from Detroit, Mich., to Lebanon. Mo., the Wabash would deliver and assume the expense of delivering

to the Frisco at Twenty Third Street, St. Louis, paying the Terminal for bringing it over from East St. Louis to St. Louis.

This practice of delivering westbound freight to the Frisco at East St. Louis has been in effect since 1877. It was the competition of the Chicago & Alton that was responsible for this practice. They forced us to assume the bridge expense.

By Exam. Disque:

Q. Have the rates and divisions since then changed in any way the reasons for following that practice?

A. I have not testified anything about rates and divisions, Mr. Examiner.

[fol. 262] (Exam. Disque:) But we are asking whether any of these changed conditions were rates or divisions?

(Mr. Hughes:) None of them.

(Mr. Roberts:) None of them.

[fol. 263] On traffic from the Wabash to the Cotton Belt at East St. Louis the Wabash does not assume the burden of having that car delivered to the Cotton Belt when an intermediate switching line is used. I do not know why that is. I have no evidence on divisions.

"Q. As to whether divisions had anything to do with that practice at East St. Lous—delivering from the Wabash to the Cotton Belt through intermediate carrier, and having the Cotton Belt pay the intermediate charge: Did that practice originate in any divisions?

A. Not to my knowledge.

Q. Mr. Stanage, taking the case of a car of automobiles originating on the Wabash and transferred by the Wabash to the Frisco at East St. Louis, the car being destined to some western point on your line, or beyond your line; that transfer would be made at East St. Louis, would it not?

A. That is the present practice, yes, sir.

Q. And has that practice anything to do with divisions of through rates? Does the division of the through rate have any relation or a bearing on that practice?

A. Not to my knowledge."

[fol. 264] The Canadian Pacific is a tenant of the Wabash at Detroit and the Wabash performs terminal service for the Canadian Pacific. Respecting interchange between the Wa-

bash, Pere Marquette and Pennsylvania at Detroit, the Union Belt Railway of Detroit is an organization of these three railroads to handle the joint switching, the expense being divided on a car basis. Interchange from the Pennsylvania to the Pere Marquette is made direct, using the facilities of the Union Belt Railway. Interchange from the Wabash to the Pere Marquette is made direct at Delrey, Michigan; the Pere Marquette handles the freight to and from the interchange connection and the Wabash handles its freight to and from such connection.

I will state that in connection with all of my data I have submitted I did not in any instance check up any rates or divisional matters.

My recollection is that the Nickel Plate is not an owner of the Terminal, but under the Supreme Court's decision they are permitted to avail themselves of the facilities of this terminal if they so desire. So far as I know from personal knowledge they probably end over in East St. Louis. The Frisco rails end at St. Louis.

When I said burden in my testimony dealing with which road bore the burden of the transfer, I meant assumed the expense of the interchange. It would necessarily follow that this became a part of the expenses of operating whatever railroad assumed that expense.

The nearest yard of the Chicago & Eastern Illinois to East St. Louis is at Mitchell, about five miles from the River. Even when the Chicago & Eastern Illinois hauls cars [fol. 265] with its own locomotives from its yard on the east side of the river to the west side of the river, the west side lines pay the transfer charge in both directions.

I referred in my testimony to the deliveries between the Chicago & Eastern Illinois and the Frisco at Chaffee, Missouri. The Chicago & Eastern Illinois, under a contract with the Frisco, has the joint use of the terminal and division yard of the Frisco at Chaffee. When a delivery is effected between those two companies it is in that joint yard and there is no intermediate switching.

By Mr. Dick:

Q. You spoke of the situation at Toledo, Ohio; is there any rate-breaking line or point at Toledo on through traffic between east and west?

Mr. Hughes: I wish to object to that, Mr. Examiner, as wholly irrelevant.

Exam. Disque: That is right.

By Exam. Disque:

Q. Do you know anything about the reason for the situation at Toledo, Mr. Stanage?

A. No, sir.

Q. Would the rate situation possibly be the reason for it, do you think?

A. I did not inquire into the rate situation and I do not know.

Q. Might it be the reason for it?

A. I do not know, Mr. Examiner.

[fol. 266] (Mr. Stanage:) I detailed in the record the customary practice at the more important terminals in the United States, and the interchange method observed in the East St. Louis-St. Louis terminal is different to the extent that the east side lines deliver the freight to the west side lines short of their rails—by that I mean that East St. Louis, instead of St. Louis, a station on their line, that is contrary to the usual practice observed in the interchange of freight in the United States. Further, the decision of the Supreme Court which decided that the Terminal Railroad Association was a common terminal facility in St. Louis, the East side lines maintaining and operating stations at St. Louis, I think it is inconsistent that they should not handle the freight to and from St. Louis, the end of their rails, and there interchange it with their western connections, which is the custom and practice throughout the United States in all important terminals.

In my investigation I did not find any facts which in my opinion justified the difference in practice. I confined my investigation of the facts to the physical handling of the shipments. I did not inquire into the rate feature at all.

St. Louis was made a station on the rails of the east side lines back in 1889, when the Terminal Railroad Association was formed, and shortly thereafter several of the more important east side lines secured property in St. Louis and erected freight stations in St. Louis, and therefore, they established St. Louis as a freight station on their line to the

extent that a freight station was built there. The Pennsylvania opened its freight station March 1, 1892; the L. & N. Dec. 21, 1892; The Toledo, St. Louis & Western, Jan. 1, 1893; Wabash, April 1889; these off-track stations, sub-stations, I do not recall just when they were established for each individual east side line.

[fol. 267] In the case of a car originating at Cleveland, Ohio, and brought into east St. Louis by the Big Four, the Big Four would deliver that car to the Terminal at East St. Louis, the Terminal would bring it across the river and set it on the Frisco's track. If the practice were changed, as the west side lines desire, and the Big Four continued to avail itself of the Terminal for the purpose of making delivery to the Frisco, there would not be any difference in the physical handling of the car. In a movement of that kind we would want the Big Four to assume the expense of delivering the car to the Firsco at St. Louis. We want the interchange point on westbound traffic St. Louis instead of East St. Louis.

On traffic interchanged at Cincinnati the delivering line absorbs the intermediate charge, if there is one. This is true as to traffic interchanged between the railroads serving Cincinnati, Ohio,—any two railroads on the Cincinnati, Ohio, side—the north side of the river. That includes traffic moving, for example, from Cleveland, Ohio, to Atlanta, Ga., or from Atlanta to Cleveland, delivered by the Big Four to the L. & N. The Big Four interchange tracks with the L. & N. are located at Harriett Street. The Big Four handles its freight to and from interchange connection and the L. & N. handles its freight to and from connection. That is how the physical interchange is performed on the traffic of the Big Four on the one hand and the L. & N. on the other at Cincinnati. On traffic moving from Cleveland, Ohio, to Atlanta, the L. & N. would come over to Cincinnati on the north bank of the Ohio river and take the traffic there from the Big Four, and traffic moving from Atlanta, Ga., to Cleveland, would be delivered by the L. & N. to the Big Four at Harriett Street, Cincinnati, so that the L. & N. in each direction brings the traffic to the north bank or takes it from the north bank, but the Big Four does not serve the south bank of the river at Cincinnati, Ohio.

[fol. 268] Traffic is interchanged between the Wabash and the Nickel Plate at Fort Wayne by direct interchange.

[fol. 269] JOHN W. NOURSE, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am General Passenger Agent of the St. Louis-San Francisco Railway, St. Louis, Mo.

In the handling of passenger traffic between points east of St. Louis and the territory west of St. Louis, all passenger business is interchanged between railroads reaching St. Louis from the east, commonly called eastern railroads, and railroads reaching St. Louis from the west, commonly called western railroads, at the St. Louis Union Station, and it is not in any case interchanged at East St. Louis or at any other point on the east bank of the Mississippi River opposite St. Louis.

The railroads entering St. Louis from the east, namely, the Baltimore & Ohio Railroad, Cleveland, Cincinnati, Chicago & St. Louis Railway, Chicago & Alton Railroad, Chicago & Eastern Illinois Railway, Illinois Central Railroad, Louisville & Nashville Railroad, Mobile & Ohio Railroad, Toledo, St. Louis & Western Railroad, Pennsylvania Railroad, and Southern Railway, operate their passenger trains in there entirely to and from the St. Louis Union Station; and the locomotives of these eastern lines are operated to and from the Union Station, except when on account of certain physical conditions, such as the size and character of the locomotives, the locomotives of these eastern lines are not permitted to use the Eads Bridge or Terminal Railroad Association tunnel in St. Louis. Therefore, primarily for this reason, trains operated via the Eads Bridge and the St. Louis tunnel are hauled to and from East St. Louis by locomotives of the Terminal Railroad Association.

[fol. 270] The eastern railroads use their own locomotives to and from St. Louis Union Station on all trains operated via the Merchants Bridge.

The various eastern railroads named above, which operate trains between St. Louis and points east of the Mississippi River, publish as via their own lines, fares from St. Louis Union Station to the stations reached by their trains from St. Louis, and as evidence of this, I submit passenger tariffs issued by these railroads; a full description of such tariffs being set forth in the exhibit which I now submit.

The tariffs were thereupon received in evidence, marked "Complainants' Exhibit No. 16, Witness Nourse.")

Tickets from points east of the Mississippi River to St. Louis, and tickets from St. Louis to points east of the Mississippi River, issued by each of the eastern railroads named above, provide for passage to or from St. Louis via their respective lines, and do not provide separate coupons or any other evidence of transportation between St. Louis and East St. Louis, or any other point on the east bank of the Mississippi River via the Terminal Railroad Association, opposite St. Louis. Settlement is made by the eastern railroads with the Terminal Railroad Association for the movement of their trains over the Terminal tracks and bridges on a fixed charge per car.

Dealing now with the interchange of the United States mail and express traffic: In the handling of United States mail and express traffic between points east of St. Louis and the territory west of St. Louis, all such traffic is not interchanged between eastern and western railroads at East St. Louis, or at any other point on the east bank of the Mississippi River opposite St. Louis.

In the handling of United States mail, the arrangement now in effect, which has been in effect since November 1, 1916, is that the Terminal Railroad Association is, in effect, [fol. 271] the agent or representative of the various eastern railroads, and mail routes were established via such railroads, showing the western terminus as St. Louis Union Station. Therefore, since November 1, 1916, the Terminal Railroad Association has not been recognized as a carrier by the United States Post Office Department, and it receives no compensation from the Post Office Department, such compensation for the transportation of mail between St. Louis and the east bank of the Mississippi River being

paid direct to the railroads entering the St. Louis Union Station from the east.

To sum the matter up, St. Louis Union Station is always the point of interchange between the eastern and western railroads on passenger, mail and express traffic from points west of St. Louis passing through St. Louis to points east of the Mississippi River, as well as on passenger, mail and express traffic from points east of the Mississippi River passing through St. Louis to points west of St. Louis.

Mr. Harr: I move that all of the testimony of the Witness Nourse be stricken from the record, that the same is incompetent, irrelevant and immaterial.

The Examiner: Overruled.

Mr. Harr: Exception.

[fol. 272] C. C. P. Rausch, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am Assistant Freight Traffic Manager of the Missouri Pacific Railroad, St. Louis, Mo., having been employed by that railroad for thirty-seven years.

Exhibit No. 17 is a map of the Missouri Pacific Railroad, showing the system proper in red. The track mileage operated by the Missouri Pacific as of December 31, 1924, was 7,300 miles, but including leased lines and trackage rights the total is about 9,900 miles. This does not include the Denver & Rio Grande and the Wesftern Pacific lines, nor the Gulf Coast Lines and International Great Northern lines.

(Said map was thereupon received in evidence, marked "Complainants' Exhibit No. 17, Witness Rausch.")

Exhibit No. 18 is a printed map or diagram of part of the Missouri Pacific Railroad, which shows a little more in detail the St. Louis-East St. Louis physical situation.

(Said map or diagram was thereupon received in evidence, marked "Complainants' Exhibit No. 18, Witness Rausch.")

Exhibit No. 19 is a statement of revenue freight in tons interchanged between the Missouri Pacific Railroad and its principal connections operating in and out of St. Louis for the first four months of 1925, viz, January, February, March and April, showing, first, the name of the connecting line, second, the number of tons the Missouri Pacific delivered to connecting line; third, the number of tons the Missouri Pacific received from connecting line; for example, the tonnage handled in connection with the Baltimore & Ohio Railroad during the period, Missouri Pacific delivered [fol. 273] to the Baltimore & Ohio 104,424 tons, and the Missouri Pacific received from the Baltimore & Ohio 45,064 tons, difference 61,360 tons excess delivered by the Missouri Pacific over and above what it received.

The same situation was substantially true with regard to the interchange of tonnage with the Cleveland, Cincinnati, Chicago & St. Louis, commonly known as the Big Four, which is part of the New York Central lines, the Missouri Pacific delivering that line very much in excess of the tonnage received from that line, the excess being nearly 82,000 tons.

The same situation is true with regard to the Pennsylvania lines. The difference, or excess, is very much in favor of the Missouri Pacific, the actual excess being nearly 103,000 tons.

This situation pertains practically — account of all of the east side trunk lines, which indicates that on the basis of the delivering line assuming the bridge tolls or river transfer charge between St. Louis and East St. Louis that the Missouri Pacific would be exceedingly liberal.

It should be noted that the foregoing, in fact all of the figures indicated for all of the lines indicated, means that it is the tonnage interchanged at all connections. That is to say, the Missouri Pacific Railroad connects with the Baltimore & Ohio Railroad at St. Louis-East St. Louis through the Terminal.

For account the Big Four there are two places of contact, St. Louis and Cairo—by St. Louis I mean the St. Louis-East St. Louis district; but in the case of Pennsylvania lines there is only one point of contact, St. Louis-East St. Louis. Therefore, not being in possession of the actual tonnage figures in the way of tons interchanged at

the several junction points, where there is more than one such, as in the case of the Missouri Pacific on the one hand and the C. & A., C. B. & Q. and Wabash on the other, I have prepared another exhibit to show that situation.

[fol. 274] (Thereupon said statement was received in evidence marked "Complainants' Exhibit No. 19, Witness Rausch.")

Exhibit No. 20 is a statement of the freight revenue cars interchanged at St. Louis, Mo., as between the Missouri Pacific on the one hand and the more important connections —we show the Baltimore & Ohio, Chicago & Alton, Big Four, Pennsylvania, etc.——

"The Examiner. How can you interchange at St. Louis with the Baltimore & Ohio?

A. Through the Terminal.

Q. I thought that was done at East St. Louis?

A. It is, too. We interchange at East St. Louis, through, with the Baltimore & Ohio, through the Terminal, and at St. Louis, too.

Q. That is where the rate breaks on St. Louis?

A. No, it has nothing to do with the rate-break at all. This is actual physical handling."

Exhibit No. 20 only covers cars that come over to St. Louis and has nothing to do with tonnage via East St. Louis. It might include traffic switched within the City of St. Louis. It includes all traffic that was brought over by the line indicated through the instrumentality of the Terminal Railroad Association, delivered to the Missouri Pacific at St. Louis, for St. Louis proper or going beyond St. Louis. As to how we can determine whether a car was delivered to us at St. Louis or East St. Louis if it was going to Kansas City, we can determine when it is brought across the river and given to us at St. Louis—we call that St. Louis delivery. Not all of it is given to us that way. There is no defect in the exhibit, because it is a statement of tonnage that was brought over to St. Louis, Mo., and given to the Missouri Pacific there—the Missouri Pacific took physical possession of it at St. Louis, Mo. As to what [fol. 275] happened at East St. Louis in reference to the B. & O., for instance, the B. & O. brought a certain amount of tonnage into East St. Louis and turned it over to the

Terminal, the Terminal brought it to St. Louis and gave it to the Missouri Pacific. On every car in this statement the Missouri Pacific paid the charge across the river; the line east of East St. Louis did not pay it in any instance except where the Missouri Pacific handled it as a switching line in St. Louis.

"Q. As shown on your exhibit here, which of those cars did the Missouri Pacific pay the transfer charge and which did they not?

A. I do not know; I have not separated that, and I did not have that in mind. I simply wanted to show that our deliveries to our connections are very much in excess, and the same situation is true on the traffic we interchange at St. Louis.

Q. This exhibit shows interchange at St. Louis. You mean physically taking possession of the car?

A. Yes, I mean the Missouri Pacific got possession of the car as it came across the river via the Terminal. Every car of this went west. Where the bridge toll was involved the Missouri Pacific paid it. Every car that went locally in the city the eastern lines paid it. We got an additional switching charge if it happened to go down to some local industry."

[fol. 276] Such interchange is shown for the months of January, February, March and April, 1925, indicating, first, the connecting railroad; second, the number of cars the Missouri Pacific received from such railroad; third, the number of cars the Missouri Pacific delivered to such railroad; and fourth, the difference in favor of the Missouri Pacific. For example, the Missouri Pacific received from the Baltimore & Ohio 960 cars, and the Missouri Pacific delivered to that line 1,169 cars, an excess of 209 cars over those received. The same situation is true with reference to the Big Four, The Pennsylvania and other lines. This exhibit is primarily introduced to corroborate the foregoing exhibit. There are some cases here where the interchange is just the reverse and they gave us more cars."

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 20, Witness Rausch.")

Exhibit No. 21 shows the railroads indexed in the Official Guide of May, 1925, as reaching St. Louis, Mo. This indicates that the eastern lines recognize St. Louis and in-

dicate that they reach St. Louis. The title page of the Official Guide indicates that it is the Official Guide of Railways and Steam Navigation Lines in the United States, Canada, and Mexico. It contains a general index of railroads and steamship lines; a complete list of officers, including freight [fol. 277] officers; a complete list of junctions, including freight junctions and connecting lines; and in the back of it is a complete index of railroad stations. It contains passenger schedules, but it is also used to a very great extent with regard to freight matters.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 21, Witness Rausch.")

Exhibit No. 22 is a memorandum of the railroads shown in the index of the Official Guide of May, 1925, as entering East St. Louis, Ill. It will be seen by comparing Exhibits 21 and 22 that substantially all of the trunk lines reaching St. Louis and East St. Louis are the same. This including such lines as the Baltimore & Ohio, the Burlington, Chicago & Alton, Big Four, Illinois Central, Louisville & Nashville, N. Y., C. & St. L., The Pennsylvania, Southern and Wabash Railroads.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 22, Witness Rausch.")

Exhibit No. 23 is a memorandum taken from the official list of open and prepay stations, which is a complete list of freight stations on the lines throughout the United States issued by Agent Leland as per his I. C. C. 1699. The information contained therein shows geographical location of stations and other information, but for the purpose of this exhibit there is indicated what is contained on page 424 as to the list of railroads in alphabetical order which indicate St. Louis, Mo., as a freight station on their line, this taking in substantially all of the eastern trunk lines.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 23, Witness Rausch.")

Exhibit No. 24 is a memorandum showing list of railroads at St. Louis, Mo., taken from Exhibit No. 21 and is headed [fol. 278] "At St. Louis, Mo.," indicating that traffic is interchanged between the Missouri Pacific and the lines in-

dicated. For example, in connection with the Baltimore & Ohio "T" indicates traffic is interchanged through the Terminal. In the case of the C. B. & Q. the interchange is made through the Terminal, circle 1 indicating at 12th Street or Lesperance Street. In the case of the Frisco the interchange is indicated as "D", which means direct interchange is made account of track connection, and then circle 3 indicates where it is made, namely, Grand Avenue, 3600 West, which means substantially 36 blocks west of the Mississippi River in the City of St. Louis. For account of larger eastern trunk lines the Baltimore & Ohio, Pennsylvania, and other lines, the interchange is all indicated as "T", meaning through the Terminal.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 24, Witness Rausch.")

[fol. 279] I might state as a general proposition and quite specifically that at all of our junctions except St. Louis-East St. Louis the delivering line actually makes delivery, without any cost to the connecting line.

Exhibit Number 25 is with regard to Kansas City, Missouri. This is a statement showing connections and interchange of railroads at Kansas City, Missouri, between the Missouri Pacific on the one hand and all other lines entering Kansas City on the other, listed in alphabetical order. For example, for account of the Santa Fe it shows, first, the letter D, which indicates that direct connection is made; no additional charge necessary to be made or absorbed. Then to the right follows the figure "1", which is explained on the next page, that the connection is in Kansas City, Missouri, none in Kansas City, Kansas, although as a matter of fact both the Missouri Pacific and the Santa Fe operate in Kansas City, Kansas.

For account of the C. B. & Q., there is a direct connection at Kansas City, Missouri. The same situation is true with reference to the Chicago & Alton.

For account of the Chicago Great Western direct connection is made in Kansas City, Missouri, although that line also reaches Kansas City, Kansas, but according to reference "1" no connection or interchange is made in Kansas City, Kansas.

On the other hand, take the Rock Island; there is a direct connection between the Missouri Pacific and that line, both lines reaching Kansas City, Missouri, and Kansas City, Kansas, but the actual connection on interchange is as per figure 2, viz., in Kansas City, Kansas, and none made in Kansas City, Missouri. As to all of these direct connections there is no additional charge, the delivering line taking care of any necessary switching to physically deliver the car.

[fol. 280] Take the case of the K. C. C. C. & St. J. Railway, the connection and interchange is indicated by the figure 4, which means that through traffic is handled as between these two lines—the Missouri Pacific on the one hand and the K. C. C. C. & St. J.—through the Burlington as intermediate line. The Missouri Pacific as the delivering line absorbs the C. B. & Q. charge to effect delivery. On the other hand, the K. C. C. C. & St. J. as delivering line absorbs the same switching charge of the C. B. & Q. in the reverse direction, or, in other words, as delivering line.

This same situation of delivering line absorbing the charge of the intermediate line to make delivery exists account of the K. C. K. V. & W., which is designated first by the figure 6 or reference 6 appearing on the second page, and there it is indicated in detail that this connection is made through the K. & M. Railway and Terminal. The charge of that line is indicated, and that the Missouri Pacific as delivering line absorbs, on through business, same, or pays same per tariff authority indicated, and on the other hand the K. C. K. V. & W., in the reverse direction, delivers through the K. & M. Railway to the Missouri Pacific, paying the intermediate charge, this being indicated by the figure 5 in Kansas City, Kansas.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 25, Witness Rausch.")

Exhibit 26 is a photostat copy of the title page of Missouri Pacific tariff 3117-H, I. C. C. A-6516, showing local switching rates, also absorption of connecting line switching charges, etc., at Kansas City, Missouri, and Kansas City, Kansas, effective June 10, 1925. This simply identifies the document, and then at the bottom is indicated item 55 [fol. 281] which indicates the authority that the delivering

line pays the intermediate charge on through business interchanged at Kansas City to effect necessary delivery.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 26, Witness Rausch.")

Exhibit No. 27 consists of six pages and shows in chart form connection and interchange of railroad at Omaha, Nebraska, on through traffic arranged alphabetically showing, for example, that as between the Missouri Pacific on the one hand and the C., B. & Q. on the other, there is direct track connection, therefore, it is not necessary to make any additional charge nor absorb the same; but, for example, as between the Chicago Great Western and the C., St. P. M. & O. the connection and interchange is made per Number 1, as indicated, through the Union Pacific Railroad. The second sheet shows the connections and interchange of railroads at South Omaha as between the Missouri Pacific and the several roads indicated, either direct or through the Union Stock Yards, and the third sheet shows the situation at Council Bluffs, where generally all lines have track connections. The balance of the pages show the charge of connecting line, the tariff authority for same, and just what line as delivering line in all cases absorbs the intermediate line charge; for example, at Omaha, connection and interchange on through traffic between the Chicago Great Western and the C., St. P. M. O. is indicated as Number 1, through the Union Pacific Railroad Omaha; number 1 explanation is that the U. P. charge so much per car is absorbed by the C., St. P. M. & O. as delivering line and on competitive traffic and in the reverse the C. G. W. absorb the same as delivering line on competitive and non-competitive traffic.

While I did not include them all there, I might read from the C. G. W. tariff here, the same as ours; their I. C. C. 5615 [fol. 282] provides an item like this: "Disposition of intermediate charges—section 3, page 34, item 1520: Except as otherwise provided in items 1530 to 1550, inclusive, the C. G. W. Railroad will pay to the drayman or carrier performing the service the charges for drayage set out in item 1700 to 2240 inclusive, or for intermediate switching shown in the tariff of carriers performing the service lawfully on file with the Interstate Commerce Commission or state

commission (on intrastate traffic) on traffic delivering to connecting carriers." That is the vital part, that the intermediate charge is paid by the delivering carrier.

Take the situation at South Omaha as between the Missouri Pacific and the Chicago Great Western, indicated on the second sheet as Number 4, connection through Union Stock Yards. Number 4 explanation follows on the second last page, I think; it is that the Stock Yard charge of so much per car, the Missouri Pacific absorbs same as delivering line and the C. G. W. on the other hand absorb same as delivering line.

(Thereupon said exhibit was received in evidence marked "Complainant's Exhibit No. 27, Witness Rausch.")

Exhibit Number 28 is a photostat copy of the Missouri Pacific, Omaha, South Omaha, situation, and absorption tariff 4-C, I. C. C. 12, effective October 27, 1923, on intrastate traffic, which is still in effect, and there is indicated items 35, 40 and 45, and I would call particular attention to item 40 which indicates that where through rates are in effect, the transfer charge will be paid by line making delivery at junction points. Then is indicated the matter of collecting the intermediate charge, and that item speaks for itself.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 28, Witness Rausch.")

[fol. 283] Exhibit Number 29 shows the situation at Wichita, Kansas, and lists different railroads there alphabetically and indicates whether or not the several lines have direct connection or through some intermediate line. The letter D, of course, indicates there is direct connection, as for example, between the Missouri Pacific and the Santa Fe. As between the Missouri Pacific and the A. V. I., the Arkansas Valley Interurban electric line, who handle considerable freight, there is reference 4, which indicates that traffic is handled through the K. C. M. & O. as intermediate line. Such intermediate line transfer charge is paid by line making delivery at the junction point, authority for which is the second page of the exhibit, which is a photostatic copy of title page of Missouri Pacific switching and absorption tariff 4778-E, I. C. C. A-6185, applying at all points on the Missouri Pacific other than Kansas City,

Omaha, etc., and provid s for item 45 and there is reproduced item 45, which indicates that the transfer charge will be paid by line making delivery at junction point.

The different lines, including our own, secured considerable data with regard to the very general universal advertisement on the part of the east side lines that they operate to and from St. Louis, that is, they provide for freight rates, and they provide for freight train service, and do receive and deliver freight, and I have taken a few typical examples in the exhibits that follow.

(Thereupon at 5:00 o'clock p. m., September 22, 1925, an adjournment was had until 10:00 o'clock a. m., September 23, 1925.)

[fol. 284] St. Louis, Mo., September 23, 1925—
10:00 o'clock A. M.

Met pursuant to adjournment.

C. C. P. Rausch resumed the stand and further testified:

Direct examination (continued):

Exhibit Number 30 is a photographic copy of one of the pages of summer issue, 1925, Chicago & Alton Railroad time table, showing information regarding fast dependable package service, which means freight service, destined to various points, including St. Louis, Missouri. Daily package service is from Chicago and other points north and east thereof to St. Louis, Missouri, not only on beyond business, that is, for Gratiot Street, which means Missouri Pacific, and Florida Street, which means Cotton Belt, but they advertise the service to and from St. Louis itself. See the second last entry on the page.

On the other hand, they advertise daily package car service from St. Louis along with from Chicago to various points north and east. The significant part of this exhibit is to show that the Chicago & Alton Railroad recognizes St. Louis, Missouri, as a freight station on their line, advertise that they actually handle eastern St. Louis, Missouri, traffic over their line and by their line via "The Only Way."

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 30, Witness Rausch.")

Exhibit Number 31 is a memorandum taken from a C., B. & Q. Railroad document account package cars at St. Louis, Missouri, with regard to outbound movement at various destinations north and east, etc. The significant part of this exhibit is to show that the C., B. & Q. one of the eastern lines, fully recognizes St. Louis, Missouri, as a freight station on its line, that is, for the receiving and delivering of freight.

[fol. 285] (Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 31, Witness Rausch.")

Exhibit Number 32 is a photograhpic copy of the title page, so as to identify it, and sheet number 10, taken from a small pamphlet issued by the Illinois Central entitled Merchandise and refrigerator car service from Chicago, Illinois, South Water Street station to stations on the Illinois Central Railroad, and it will be noted that with other points on that line they indicate as a destination St. Louis, Missouri. Therefore, the significant part of this exhibit is the recognition this east side line gives to the fact that they reach St. Louis, Missouri, by actual freight service.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 32, Witness Rausch.")

Exhibit Number 33 is a photographic page made from copy of recent folder of the Nickel Plate with reference to its fast freight line service which indicates that they advertise daily fast through freight schedules between Chicago, St. Louis, Peoria, etc., and eastern points. It should be noted they do not indicate anything with reference to East St. Louis, so that the St. Louis indicated by check mark between Chicago and Peoria can mean absolutely nothing else than St. Louis, Missouri, and, therefore, the significant part of this exhibit is to show conclusively that the Nickel Plate, an eastern line, operates freight service to and from St. Louis, Missouri, or at least they hold themselves out to.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 33, Witness Rausch.")

Exhibit Number 34 is a four-page photographic copy of Pennsylvania Railroad System, April 4, 1925, pink flyer, for the information of the public, indicating that fast [fol. 286] through freight trains on the Pennsylvania Railroad are going to be designated by names instead of numbers in the future. Direct attention to second page which advertises a freight train as "Uncle Sam" from St. Louis to Atlantic Seaboard points. Next, "The Greyhound" from St. Louis to Atlantic Seaboard points, and next "The Eclipse" from St. Louis to Atlantic Seaboard. It should be noted that the destination here is not East St. Louis, Illinois, and while it is not designated as being located in Missouri, at the same time we all know that St. Louis is absolutely located in Missouri and we understand that is just exactly what is meant. Now, turn to the third page and you will find in the reverse direction they advertise "The Hummer" from Pittsburgh to St. Louis. The significant part of this exhibit is obvious. Namely, that the Pennsylvania Railroad, an eastern line, absolutely in the early part of this year informed the shipping public that their freight trains run to and from St. Louis, Missouri.

"The Examiner: It may not be important, but in order to complete the record I would like to know whether these eastern lines publish tariffs as local tariffs to St. Louis or whether they are joint tariffs to St. Louis showing the Terminal Railroad Association as a party.

A. They show the Terminal Railroad Association and the Wiggins Ferry as concurrent parties.

Q. They are joint tariffs?

A. Yes; so do we in publishing rates westbound.

Q. From East St. Louis?

A. Yes, sir."

A new tariff has been filed by an east side line on east and westbound through traffic wherein the Terminal is not shown as a concurring party. This is Central Freight Association Tariff Bureau tariff issued by Agent Jones, his I. C. C. [fol. 287] No. 1639, issued jointly with Agent Boyd, Boyd's I. C. C. A-1560, naming joint through rates applying on classes and commodities from stations in Indiana and Michigan to Missouri points, joint as between the C. F. A. and western trunk lines. It shows the participating car-

riers and the kind of concurrence running from one to the other and to the agents, but does not show any concurrence for account of the Terminal and Wiggins Ferry. That tariff is effective June 1, 1925, and is issued in connection with the Commission's Docket 13671.

On my Exhibit 34, on page 2 just below the train indicated as "Eclipse" is shown "The Yankee" from New England and Long Island points to Chicago. As to whether I draw the same inference from that train that I do from those noted above including the Greyhound and the Eclipse, I draw the same inference so far as St. Louis, Mo., being a freight station on the Pennsylvania as compared to Chicago, Ill., being a freight station on the Pennsylvania. Of course, it is obvious, even in the case of the Uncle Sam. It reads this way, "Uncle Sam, from St. Louis to Atlantic Seaboard Points." Everybody in this room knows that the Pennsylvania does not reach every point on the Atlantic Coast. But you do reach St. Louis, according to this advertisement and you reach Chicago, according to it. You so advertise.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 34, Witness Rausch.")

Exhibit Number 35 is a photographic four-page copy of Wabash Railroad Company Freight Traffic Department Circular 275-E, with regard to eastbound fast freight schedules, issued in the spring of 1925, over the names of the various traffic officers of that company. The significant features are those checked off on page 8, item- 9 and 10, [fol. 288] indicating actual freight service from St. Louis, Missouri, which means St. Louis, Missouri; the same situation with reference to sheet 9, item 11, and then special reference is made to the St. Louis situation per the map in the back. Obviously the exhibit, which is an exact copy of the actual document promulgated by the Wabash to the shipping public, indicates that they operate freight train service to and from St. Louis, Missouri.

I have omitted pages 2 to 7 because they pertain to other matter, but there is indicated here the title page of the circular and so much of the circular as pertains to St. Louis, Missouri.

"The Examiner: When a man in St. Louis receives freight, does he sign a receipt as having received that from the Pennsylvania or the B. & O. or does he sign the receipt as having received it from the Terminal Railroad association?

A. I think it is handled both way; that is my impression."

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 35, Witness Rausch.")

Exhibit number 36 is a photographic copy of Santa Fe Railway Company uniform bill of lading issued September 12th, 1922, at Chicago, on a shipment of soap to St. Louis, Missouri, routed S. F. C. P. & St. L. care of Missouri Pacific delivery. It indicates that the S. F. and C. P. & St. L. are roadhaul lines from Chicago, Illinois, to St. Louis, Missouri. The Missouri Pacific delivery simply indicates the Missouri Pacific receives a switching haul within the city of St. Louis.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 36, Witness Rausch.")

Exhibit number 37 is a photographic copy of a shipping order, which is equivalent to a bill of lading, of a Cleveland, Ohio, concern, account C. C. C. & St. L., an eastern line, January 12, 1925, on a shipment of kegs track bolts to St. [fol. 289] Louis, Missouri. It shows the destination, St. Louis, route Missouri Pacific. No other intermediate carrier is shown, which means that the Big Four recognize St. Louis, Missouri, as a destination on their line.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 37, Witness Rausch.")

Exhibit Number 38 is a straight bill of lading issued at Chicago, Illinois, by the Chicago & Eastern Illinois, May 27, 1925, on a shipment to St. Louis. There is no routing indicated, which, of course, means that the C. & E. I. hold out to handle the shipment from Chicago, the origin point, to St. Louis, Missouri.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 38, Witness Rausch.")

Exhibit Number 39 is a photographic copy of a memorandum C. C. C. & St. L. bill of lading dated May 25, 1925, from Middletown, Ohio, shipment of paper boxes, to St. Louis, Missouri. No other railroad is shown, which obviously indicates that the Big Four actually makes delivery at St. Louis, Missouri; at least they hold themselves out to do so.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 39, Witness Rausch.")

Exhibit Number 40 is an Erie Railroad Company freight waybill, dated Jamestown, New York, May 26, 1925, on a shipment of rocking chairs to St. Louis, Missouri. The route is "CHGO CBQ" which obviously means Chicago, Illinois, and C. B. & Q. Railroad.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 40, Witness Rausch.")

Exhibit Number 41 is a photographic copy of a bill of lading—uniform straight bill of lading, of the G. B. & W. Railway, dated at Green Bay, Wisconsin, May 26, 1925, on a car of toilet paper destined to St. Louis, Missouri.

[fol. 290] (Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 41, Witness Rausch.")

Exhibit Number 42 is a photographic copy of a uniform straight bill of lading issued by the Indiana Harbor Belt Railway, Hegewisch, Illinois, April 21, 1925, on a car of silicate of soda, destined St. Louis, Missouri, and the route there is indicated I H B-C & E I care of Missouri Pacific. That exhibit speaks for itself.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 42, Witness Rausch.")

Exhibit Number 43 is a photographic copy of freight bill of the M. & O. Railroad form with reference to shipment of rough poplar lumber, from Quincy, Florida, to St. Louis, Missouri. The route is indicated from point of origin to destination S. A. L., G. F. & A., S. A. L. M. & O. deliver to Eads, which means Eads Bridge, or rather the Terminal, for Missouri Pacific delivery. There is a note

which indicates the M. & O. pays the Terminal and Missouri Pacific for switching.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 43, Witness Rausch.")

Exhibit Number 44 is a photographic copy of memorandum of N. Y. C. bill of lading, dated Suttenberg, New Jersey, May 22, 1924, car of common soap to St. Louis. The route is indicated N. Y. C. Big Four Missouri Pacific delivery. We understand this, that N. Y. C. means New York Central Lines; Big Four stands for C. C. C. & St. L. Railway, and designation of the Missouri Pacific delivery is simply indicating that the Big Four delivers the shipment at St. Louis, Missouri. They turn it over to the Missouri Pacific as a switching line to make delivery they want as indicated.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 44, Witness Rausch.")

[fol. 291] Exhibit Number 45 is a photographic copy of uniform straight bill of lading issued by the Pennsylvania Railroad, Western Lines, at Scottdale, Pennsylvania, February 27, 1925, a car of sheet steel, destined St. Louis, the route is indicated P. R. R.-P. C. C. & St. L. for M. P. delivery, which obviously means that it was handled by the Pennsylvania Railroad, then the Pittsburgh, Cincinnati, Chicago & St. Louis, which is the west end of the Pennsylvania lines reaching St. Louis, Missouri, and the words "for Missouri Pacific delivery" simply indicate that the Missouri Pacific in St. Louis, Missouri, delivers the shipment to the particular firm indicated, because that firm is located on the Missouri Pacific tracks, and the only interest we have is as a delivering switching line. The road haul line, Pennsylvania System, handling from Scottdale, Pennsylvania, to St. Louis, Missouri.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 45, Witness Rausch.")

Exhibit Number 46 is a photographic copy of uniform straight bill of lading of Western Maryland Railroad, issued at Douglas, West Virginia, May 5, 1925, car of steel to St. Louis; the route is Billington B. & O., care of Mis-

souri Pacific delivery, the latter is indicated because the destination shown, Spring Avenue Yards, St. Louis, the particular firm being located in St. Louis on the Missouri Pacific at or near Spring Avenue Yards; so that as no other line is indicated, it means B. & O. delivery to St. Louis, the end of the road haul, to the Missouri Pacific, the switching line to make delivery to Spring Avenue Yards.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 46, Witness Rausch.")

[fol. 292] Exhibit Number 47 is a photographic copy of Wabash Railway Company uniform bill of lading issued Chicago, October 21, 1922, car of silex and soap destined St. Louis, Missouri. The route is indicated Wabash with M. P. R. R. delivery, and the only reason the Missouri Pacific is indicated is because the Fairbank Company is located on Missouri Pacific tracks and not on the Wabash. The same comments would obtain as with regard to the other somewhat similar exhibits.

(Thereupon said exhibit was received in evidence marked "Complainants' Exhibit No. 47, Witness Rausch.")

Cross-examination:

Traffic moving south on the east side of the Mississippi river and not crossing the river at East St. Louis is not involved in this case. We are asking that on all traffic that comes from the eastern lines into East St. Louis or on the east side, and comes across the river to the St. Louis side for a road-haul via our line west, that they assume the crossing charge. I do not know what proportion of the traffic would move south on the east side of the Mississippi river via the Wabash but it would be large, possibly two or three times as much as that which would cross the river at St. Louis.

[fol. 293] Ivory Transfer is located approximately between Dupo and Bixby on the east side, and Carondolet on the west. Exhibit No. 18 shows a little black line crossing the river which indicates the Ivory Transfer. Dupo is about 8 or 10 miles south of East St. Louis. Ivory Transfer, on the west side, is in St. Louis; that is Carondolet is in south St. Louis and it is really St. Louis.

A car brought in from Cleveland, Ohio, say by the Big Four, to East St. Louis, destined, say, to some point in Missouri or Texas, say, Poplar Bluff, Mo., would be handled by the Big Four into East St. Louis, and the Terminal would take it and give it to the Missouri Pacific at Valley Junction. Valley Junction is something like six miles from East St. Louis on the east side of the river. The car would be delivered to us at Valley Junction and then we would take it down the east side to Thebes and then across the river at Thebes to Delta and Dexter to Poplar Bluff.

A shipment from Cleveland, Ohio, by the Big Four, destined for example to Bismarck, Mo., would be handled Big Four to East St. Louis, the Terminal to Valley Junction, and the Missouri Pacific would take it across at Ivory. The Missouri Pacific would handle that car with its power from Valley Junction to Ivory Transfer, taking it down through Dupo and across the Ivory Transfer to Carondolet; and then down the west side of the river to Bismarck.

"Q. Isn't it a fact, Mr. Rausch, that your operating department issued instructions that even traffic destined to points on the Kansas City line should be handled via the Ivory Transfer?

A. I do not know; I could not say.

Q. You do not know anything about that?

[fol. 294] A. No. They undoubtedly have issued some instructions, yes, but just what they were—I did not go into that matter.

Q. Then it is a fact, isn't it, Mr. Rausch, that your line can handle all traffic destined to points on its line or beyond, including traffic destined to or routed via the Kansas City line, via the Ivory Transfer?

A. We could handle it to the extent of our facilities. I do not know that we could handle all traffic. It would depend on the amount of traffic."

It is a fact that the Missouri Pacific reaches East St. Louis by two routes, one via bridge across the river and one over Ivory Transfer.

[fol. 295] James E. Hutchison, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am Vice President in charge of operation of the St. Louis-San Francisco Railway, having residence in St. Louis, Mo. I have been in the employ of the St. Louis-San Francisco Railway for the past twenty-two years, in various capacities, such as Train Master, Superintendent of Terminals, Division Superintendent, General Superintendent, General Manager, and Vice President. Prior to my employment by the St. Louis-San Francisco Railway I had several years' experience on other railroads in such capacities as Telegraph Operator, Station Agent, Train Dispatcher, Chief Train Dispatcher and Train Master.

In these various capacities or positions I have been familiar with the methods of effecting interchange of through business between railroads. The principle has been universal that a railroad bringing traffic to a terminal which is to be delivered to another railroad, either for placement at industries on that line of road or for movement out over that line of railroad, stands the expense incident to such delivery.

In many cases the railroads do not have direct connection one with the other and an intermediate line of some description is used. In such cases it has been the practice that the line that originates the business or brings it into a terminal for delivery to another line compensates the intermediate line for any service it may render, either by the use of its rails or switchng service which it may perform in effecting the delivery.

At Kansas City prior to the time that the Kansas City Terminal Railway became an active factor in the situation, the St. Louis-San Francisco Railway, having physical connection with practically every line in Kansas City, was used by these lines as an intermediate switching line to effect their deliveries one to the other.

[fol. 296] Using a particular illustration, the Santa Fe Railroad, bringing traffic into Kansas City that would move out over the Chicago Great Western, delivered this traffic to the St. Louis-San Francisco Railway and the latter railway switched this business to the Chicago Great Western, and for this service were reimbursed by the Santa Fe. Business moving in the opposite direction, coming in over

the Chicago Great Western, destined to points on the Santa Fe, was delivered by the Chicago Great Western to the St. Louis-San Francisco and was, by it, switched to the Santa Fe and for this service was reimbursed by the Chicago Great Western.

I am using this illustration, but this was true of practically all of the railroads in Kansas City, and this was the way the most of the interchange was effected.

After the Kansas City Terminal Railway extended its rails and its activities, the St. Louis-San Francisco Railway was enabled to escape this intermediate switching for the various lines, and now the deliveries are effected in Kansas City for the most part by the line who brings the traffic into Kansas City. Moving it to the outgoing line by means of the Kansas City Terminal Railway Company's tracks and the Kansas City Terminal Railway is compensated for the use of its tracks by the railroad who brings the traffic into the terminal and makes the delivery to the outgoing line.

The Kansas City Terminal Railway Company is owned by the lines entering Kansas City in much the same way as the Terminal Railroad Association is owned by the lines entering St. Louis.

"Mr. Walker. I understand there is no contention that there is an intermediate switching service between St. Louis and East St. Louis, and if that is true what is the purpose of this testimony?

The Examiner. The purpose is to prove the general custom is for the delivering line to make delivery to its connection."

[fol. 297] The Witness: Using a definite illustration, the St. Louis-San Francisco Railway will bring carloads of freight into Kansas City destined to points on the Milwaukee Railway; they will handle this business from either their Rosedale or 17th Street Yard of the Frisco, to Sheffield, over the rails of the Terminal Railway, using the Terminal Railway for a distance of 6 or 7 miles and the St. Louis-San Francisco Railway compensates the Kansas City Terminal Railway for the use of their trackage for this purpose. The carload traffic that the Milwaukee brings to Kansas City, destined to points on the Frisco, the move-

ment is exactly reversed and th Milwaukee compensates the Kansas City Terminal Railway for the use of its tracks in making delivery of this business to the St. Louis-San Francisco Railway.

For the most part, this is the way the interchange between railroads is effected at Kansas City. There are some exceptions where this carload business is delivered to the Kansas City Terminal Railway and by it switched to the outgoing lines, and in such cases the line that brought the traffic into Kansas City pays for the switching service. The St. Louis-San Francisco Railway still performs some intermediate switching at Kansas City, and in every case where they do this work the line that brings the traffic into Kansas City pays the St. Louis-San Francisco Railway for switching it to the outgoing line.

But in any event, the practice is always reciprocal between the lines. I do not know of a single variation from this method of handling in any terminal with which I have ever had any connection or of whose operation I have any knowledge. At Memphis exactly the same method of handling is pursued. The Illinois Central brings carload traffic into Memphis destined to points on the St. Louis-San Francisco Railway: the Illinois Central makes delivery to the St. Louis-San Francisco and stands all the expense incident to such delivery. The St. Louis-San Francisco, moving carload traffic into Memphis destined to points on the Illinois Central, makes delivery of this business to the Illinois Central and stands all expense incident to such de- [fol. 298] livery. The same is true as between all of the roads in Memphis.

At Birmingham exactly the same method prevails. The Southern Railroad, bringing carload traffic into Birmingham destined to points on the St. Louis-San Francisco, delivers this business to the St. Louis-San Francisco and stands all of the expense incident to such delivery. On the other hand, the St. Louis-San Francisco, taking carload traffic to Birmingham destined to points on the Southern Railroad, makes delivery to the Southern Railroad and stands the expense of such delivery. The same is true of all the roads in Birmingham.

At Tulsa, Okla., Sherman, Fort Worth and Dallas, the same method of interchange is observed; in fact the prin-

ciple is established to such an extent that the receiving road indicates at what point in its terminal the delivering road must make delivery, and this is followed as a universal principle.

"Q. Right there let me ask you this question: Have you such a thing in effect in the United States as an agreement between the railroads as to the interchange track and by whom it shall be designated?

A. The General Managers Association and American Railway Association both deal with the subject.

Q. And what is the practice?

A. The practice is that the receiving line designates where it will receive the traffic and the delivering line takes it to the point the receiving line indicates?"

There are some agreements made between railroads to effect economy in delivering whereby their deliveries in both directions will be effected, possibly for one month by one railroad and the next month by the other road. There have been some arrangements with which I have been familiar where one road was short of yard room and they said to another railroad that if they would furnish the track room to accom-odate the interchange of both railroads they *they* would move the cars in both directions, [fol. 299] but whenever the arrangement I have outlined has been varied from it has been for a consideration that has been satisfactory to the contracting parties.

At St. Louis proper, the roads on the west side effect their interchange just as I have outlined heretofore. Traffic coming into St. Louis on the St. Louis-San Francisco, destined to points on the other west side lines such as the Wabash, Missouri Pacific and Rock Island, is delivered by the Frisco to these lines at its sole expense, and traffic coming into St. Louis on these other lines, destined to points on the St. Louis-San Francisco, is delivered by these lines to the St. Louis-San Francisco at the sole expense of the delivering line.

In many terminals in effecting these interchanges it is necessary to make use of the trackage of another carrier or a switching line, and in such cases the line originating the traffic assumes this expense in making the delivery to the line on which the traffic is destined.

H. R. Fertig, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am chief of yard and terminal operations of the Chicago, Rock Island & Pacific Railway Company. The duties of that position involve supervision of the operation of the yards and terminals of the Rock Island Railroad, the classification of all traffic in freight trains and yards and general superintendency or supervision of train operations. I have been in the railroad service for twenty years, altogether in the operating department. I have made a study of the practice of railroads with respect to the interchange of through traffic; it has been my work. I have prepared some testimony bearing on that subject in connection with this complaint. The testimony that I will give will be based on my experience and association with transportation and [fol. 300] other officers of the railroads on connection with the interchange of traffic.

There is a generally recognized obligation on the part of carriers to make delivery of through traffic to the receiving carrier in the yard and on the designated track for receipt of the traffic of the receiving line, either by direct delivery with the power of the delivering line or by using an intermediate switching line to act as its agent in effecting delivery of the through shipment.

The obligation of the inbound carrier has not been fulfilled when the shipment has reached the ends of its rails. There is a further obligation, that of placing the shipment in the proper channel for its continuous movement to final destination. This can be done only by the delivery of the shipment in the yard of the outbound carrier. Whether this is accomplished direct by the use of inbound carrier's power, through the agency of an intermediate switching line, or through a reciprocal arrangement with the receiving line whereby the receiving line performs for the delivering lines that service for which delivering line is responsible to perform, the principle is the same.

This principle is recqgnized in the rules governing interchange of traffic between carriers as covered by American Railway Association Code of Car Service Rules, Rule 6, which reads in part:

"Rule 6. Cars shall be considered as having been delivered to a connecting railroad when placed upon the track agreed upon and designated as the interchange track for such deliveries, accompanied or preceded by proper data for forwarding and to insure delivery, and accepted by the car inspector of the receiving road."

Further obligation of the delivering line is recognized in American Railway Association Car Service Rule 14, which rule places upon delivering carrier the responsibility for cost of transfer of shipments delivered in cars which can [fol. 301] not be forwarded by receiving line for the following causes:

(a) Defective equipment.
(b) Improper loading or overloading.
(c) When delivering line does not desire its equipment to go beyond junctions.
(d) When cars can not pass approved clearances.

Under these sections of Rule 14 it is the recognized obligation of the delivering carrier to not only make delivery in the yard of the outbound carrier but to insure the through and uninterupted movement of the shipment by the outbound carrier, or assume the costs of placing the shipment in condition for such forwarding by outbound line.

The American Railway Association, representing all carriers, has in the past always recognized the relationship between road haul carriers as being direct; further, that the line acting as the intermediate between two carriers acted in the capacity of agent of the delivering line in the interchange of through traffic.

The American Railway Association is an association which is made up of officers representing all of the railroads of the United States. By all, I mean the Class I railroads and a great many other lines which are not termed by the Interstate Commerce Commission as Class I roads. Practically all of the railroad mileage of the United States is a part of the membership of the American Railway Association. That association adopts rules for uniform regulation and practice by the railroads; that is the purpose of the association.

This is obvious from the fact that the intermediate switching line was not allowed a reclaim on cars handled in in-

termediate movement, the per diem accrual being in the account of the delivering line for date of delivery and in the account of receiving line for day following the date of receipt. This situation resulted in intermediate switching line accruing per diem when unable to clear cars on date [fol. 302] of receipt, therefore, the rules have been recently changed to permit a maximum of one day reclaim against the line for which the service is performed, the delivering line, thus further recognizing the principle of delivery line responsibility for the acts of its agent. Obviously the intent of the association rules are to define the interchange of traffic from one road-haul carrier to another, through an intermediate or otherwise, as "Direct interchange," well establishing the principle that it is the obligation of the inbound carrier to effect delivery in the yard of the outbound carrier, regardless of the physical performance incident to such delivery and to bear the expense of such delivery to outbound carrier, or to at least place the two road-hauled carriers on a reciprocal basis.

Regarding traffic delivery at destination: There is a recognized obligation on the part of the inbound carriers to effect final delivery to consignee at billed destination, either upon the rails of the inbound carrier or on the rails of a terminal switching line within designated switching limits.

This obligation is not only recognized in the first two cases but further assumed when it is necessary to effect delivery to terminal switching line through an intermediate switching line, subject to certain tariff regulations as to minimum freight charges, etc., which are seldom applicable on carload shipments.

In accepting a shipment at point of origin for transportation to final destination there is no difference in principle between the obligation of the carrier to make final delivery at destination and the obligation to effect delivery to the outbound carrier at the junction point where shipment leaves its line in the through movement to destination. In the first instance the inbound carrier assumes the expense effecting actual delivery to consignee on its own rails, on the rails of a terminal switching line, or through an intermediate switching line and a terminal switching line, and in addition recognizes the terminal switching line and inter- [fol. 303] mediate switching line as its agents. This is

evidently the intent of American Railway Association Per Diem Rule 5, which reads in part:

"Rule 5: (a) An amount for each car in switching service may be reclaimed by each individual switching road from the road for which the service was performed. This amount shall be based upon the average number of days, not to exceed 5, for cars handled in terminal switching service. * * *"

On shipments originating at industries on terminal switching lines at point of origin, carriers recognize their obligation to assume the terminal expense incident to the delivery of such shipments to the rails of the outbound carrier, necessarily shrinking its earning to take care of the originating terminal expense.

As the instance of effecting delivery at destination, the road-haul carrier recognizes the terminal switching line (also intermediate when required) as its agent, assuming the same per diem reclaim in both cases, for the purpose of assuring the terminal switching line's tariff charges accruing in full without loss through per diem expense.

With regard to general practices of interchange, the general practices among carriers with regard to the interchange of traffic are in principle:

(a) Road-haul carrier effect delivery to consignee at destination assuming cost of terminal expense incident to such delivery;

(b) Outbound road-haul carrier assumes terminal expenses of terminal switching line and intermediate switching line incident to effecting delivery to its line of shipments on which the outbound road-haul carrier secures the road haul;

(c) Road-haul carrier, inbound, effects delivery of through shipments to outbound carrier, either with its own power or through the agency of an intermediate switching line where such intermediate line is necessary; assumes per [fol. 304] diem expense of intermediate line; insures the through movement of the shipment or assumes responsibility for placing the car and shipment in proper condition for movement by outbound carrier.

While there are at different junctions certain local agreements which deviate from the general principle outlined

herein, it is the general practice to insure the expense of interchange of traffic being effected on a reciprocal basis, each line so interchanging traffic to bear an equitable share of the cost of interchange. The situation at St. Louis between carriers on the west side is reversed from the general practice, the receiving line paying intermediate, while the situation as between east side and west side lines is entirely divorced from the general practice, the west side lines being required to assume the intermediate in both directions on through traffic. However, at St. Louis the intermediate switching line is obviously recognized as the agent of the delivering line, in view of the fact that the delivering line, under the Service Measure Plan, credits the intermediate switching line with the 1.5 unit per car on through movement traffic.

In order to show the general practice among the carriers at different junctions, exhibit No. 48 is offered and which is largely self-explanatory. Reference will be made herein to a number of conditions and practices existing at these junctions.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 48, Witness Fertig.")

This exhibit shows on page 1 through westbound traffic [fol. 305] delivered to the Rock Island by connections at St. Louis at Carrie Avenue, outer yard of the Rock Island, on which Rock Island paid intermediate switching charges. It shows the departure from general principle of interchange of through traffic through St. Louis gateway. It covers westbound traffic moving from inbound carriers with Rock Island as the outbound carrier, during 1924. It does not represent all traffic reaching Rock Island in through movement, which will be more fully covered by other witnesses. It shows 9023 loaded cars delivered to the Rock Island in such through movement, on which the Rock Island paid a total of $90,697.70, an average of $10.10 per car, which amount, under the general principle of interchange, should have been borne by the delivering line, it being generally recognized as a responsibility of the inbound carrier to assume terminal expense incident to delivery of through shipments to outbound carriers. It represents traffic received from west side lines as well as east side

lines on through movement under the St. Louis rules that the receiving line pays the transfer. A very small per-cent of the through movement to the Rock Island comes from west side lines. The amount $90,697.70 includes amounts paid by the Rock Island for the intermediate switching on such cars, which is the St. Louis rule. The practice is reciprocal in St. Louis on the west side of the river, and on the east side of the river when traffic moves between lines entirely on the east side.

Page 2 of the Exhibit shows the movement to connecting lines through Carrie Avenue accounts of through shipments and in addition those cars reconsigned from Team Tracks, fruit houses, etc. It includes no other traffic than that which crossed the Mississippi river, because the receiving line on the west side pays the intermediate. This tabulation only represents traffic which went across the river, because that is the only traffic we pay on in both directions. It shows that on a total of 12,410 cars delivered by the Rock Island during 1924 the Rock Island paid the Terminal expense of delivery to the outbound carrier, amounting to $129,082.29, [fol. 306] an average of $10.65 per car. The Rock Island recognizes its obligation to effect delivery of through ship-ments to outbound carrier, without expense to such out-bound carrier, subject to minor tariff regulations, and this tabulation indicates the extent to which the Rock Island has met these obligations on the cars covered by the tabula-tion, which does not include all of the traffic so handled, on all of which the outbound carrier enjoyed a part of the through transportation charges from point of origin to final destination. Comparing the two pages, 1 and 2, it will be found that the Rock Island paid out in 1924 at St. Louis for intermediate terminal service on through traffic de-livered and received by the Rock Island a total of $219,-780.62, of which amount $129,082.92 covered traffic delivered (58.8 per cent) and $90,697.70 on traffic received (41.2 per cent) the entire 100 per cent of the interchange expense be-ing borne by the Rock Island on the 21,163 cars represented by these two tabulations.

In order to show the practices governing the interchange of traffic at other junction points, subsequent pages of this exhibit will be referred to.

The principle of direct interchange is well illustrated by the operation of the Iowa Transfer Railway pool yard, Des Moines, Iowa. Page 3 of this exhibit shows the expense borne by the Rock Island as its proportion of the operation of the Transfer during 1924. Particular attention is called to the method used in allocating the expense to be borne by each line using the Transfer, as shown at the bottom of page 3, indicating that the expense of each tenant line is based on the total cars delivered to the other lines, a recognition of the delivering line responsibility.

On page 4, at this junction, instead of making delivery to outbound carrier direct, or through an intermediate, a pool yard has been created to and from which each line moves the traffic delivered and received by it. Page 4 in- [fol. 307] dicates the deliveries made by each of the several tenant lines in the pool yard, the proportion of the total expense borne by each line, the total expense by lines, and the average cost per car delivered.

It will be noted from this page that there is a direct delivery effected through the Transfer which would not in all cases be possible without such pool yard and, further, that lines not directly a party to the pool yard agreement, the Milwaukee and Wabash Railroads, enjoy the privileges of direct delivery through their contract with the Des Moines Union Railroad, a tenant of the Iowa Transfer Railway Company. Delivery to the Union constitutes delivery to its tenants, Milwaukee or Wabash, as the case may be, and it would be obviously unfair to assume that because they had no physical connection with the Transfer yard, these two lines should be required to bear the expense of interchange in both directions.

That exhibit shows that the cost to each railroad was practically uniform on account of the fact that it is predicated on the proportion of the total number of cars handled, so that there is an almost absolute equality among those carriers at Des Moines.

Page 5 shows the exchange expense at Minnesota Transfer. The situation at Minnesota Transfer pool yard is somewhat different from the Iowa Transfer with regard to the manner of allocating the expense of interchanging traffic. At the Minnesota Transfer the expense is based on the total number of pounds of freight delivered and re-

ceived through the transfer by each of the tenant lines. Under this plan each line bears an equitable share of the [fol. 308] total expense incident to the traffic handled by its line, but the principle is the same at both transfers, each line bearing its share of the expense.

On page 6 will be found an excerpt from the by laws of the Minnesota Transfer Railroad, outlining the plan of allocating the expense which has just been referred to with reference to the previous page.

Pages 7 to 20, inclusive, are charts showing the method of interchange of traffic through a number of junction points. Brief mention will be made of these pages.

The interchange of traffic between lines at Memphis is practically all direct delivery from inbound to outbound carrier, with the following exceptions: The Union Railroad operates the Missouri Pacific terminals at Memphis, interchange being made with the Union Railroad on traffic moving to the Missouri Pacific. No intermediate switching charges are assessed by the Union but for accounting reasons the records are maintained in separate account.

Due to physical terminal conditions at Memphis the Rock Island makes delivery to the Louisville & Nashville on a track in the yard of the Rock Island, the Louisville & Nashville hauling traffic to and from this track. The Rock Island, recognizing its obligation to effect delivery in the yard of the outbound carrier, pays to the Louisville & Nashville under an operating agreement a pre-car charge for the service of performing for the Rock Island that part of its terminal obligation which it is unable to perform for itself. In the opposite direction, delivery to Rock Island, the Louisville & Nashville naturally bears the entire expense of delivery to the outbound carrier.

The Mississippi Warrior Service—Federal Barge Line—assesses a switching charge on traffic to and from warehouses and docks used by the barge line. This intermediate [fol. 309] is paid by the delivering carrier. On shipments moving from the barge line to outbound road-haul carriers, the Warrior intermediate is assumed by the barge line, with the exception of traffic moving out via the Southern Railway, which is delivered to the Union Railroad as an intermediate switching line, the Southern paying the Union intermediate charge. This has been brought about by the

failure of the Southern Railroad to make direct connection (which is possible) with the Warrior Service rails, preferring to pay the intermediate charges.

The general practice of delivering line bearing expense of delivery to outbound carrier is observed at Peoria—that is, Peoria proper—with the exception of traffic moving to and from the Illinois Traction, the electric line, which line under contract with the Peoria & Pekin Union Railroad, bears the expense in both directions. With the exception of the Illinois Traction and the Minneapolis & St. Louis Railroad, all deliveries at Peoria are made direct from one road haul carrier to another on through traffic, each inbound line, either with its own power or through contract with its terminal agent, making delivery in the yard of the outbound carrier. Between the M. & St. L. and Burlington an intermediate is required, the delivering line paying intermediate.

The situation at Pekin, which is a part of the Peoria-Pekin switching district, is analogous to Peoria, delivering line bearing expense of intermediate delivery, or effecting delivery by Terminal Agent under contract.

[fol. 310] While the Big Four and C. & A. have direct connection with each other at Pekin, direct deliveries are not effected, the intermediate line, Peoria Railway Terminal, being used. There has been in the past considerable traffic delivered direct to the outbound carrier by the Chicago and Alton with its own power, through a trackage right with the P. R. T., but the greater part of all traffic moving from east side to west side lines at Peoria, and vice versa, moves through the unified terminal yards of the tenant lines of the Peoria and Pekin Union Railroad.

Kansas City, Mo., page 10: All lines have direct connection, either via their own rails or through trackage rights under contract, with the exception of Chicago Great Western, which does not have direct connection with six lines. Traffic for these lines and from these lines to C. G. W. is handled by the Kansas City Southern Railway as intermediate switching lines. It is the general practice of delivering line to pay the intermediate charges at Kansas City. The Rock Island has a means of making direct delivering to the C. G. W. through a trackage right over Frisco rails but

does not avail itself of this direct delivery, effecting more prompt movement by using the Kansas City Southern.

The principle of delivering line obligation is well supported at Kansas City where direct delivery from line to line is maintained through trackage rights in the case of a number of the carriers not having direct connections with other lines. The Rock Island and Chicago, Milwaukee & St. Paul effected delivery to each other by a movement with their own power over nine miles of terminal tracks. Other lines have like conditions under which through movements are effected.

Pages 11 to 18 show the practice of interchange at several other junctions in central west and are largely analogous to those junctions just referred to; therefore, no reference is made to them here.

[fol. 311] Indianapolis, Ind., Page 19: This chart is compiled from information furnished by the General Agent of the Rock Island Lines, Indianapolis, who has been in personal touch with the terminal situation at that point for a number of years. It will be noted that the situation at Indianapolis is similar to the situation at Iowa Transfer, lines using the Indianapolis Belt Railroad bearing their proportion of the interchange delivery on the basis of inbound wheelage delivered through the pool yard. At this junction the obligation of the delivering line is, no doubt, thoroughly recognized.

Cleveland, Ohio, Page 20: The information contained on this page was furnished by General Agent, Rock Island Lines, Cleveland, Ohio, who is familiar with the terminal situation at that junction. The general situation at Cleveland is practically the same as at junction points in the central west, as indicated elsewhere in this exhibit, and that the principle of delivering line responsibility is well established at the Cleveland, Ohio, junction as it is at most, if not all, other junctions aside from St. Louis, Mo.

It has been my observation, covering twenty years of terminal operation that among operating forces there has always been an assumption of responsibility on the part of delivering carriers to complete their tariff obligation by effecting the delivery of all through shipments to the carrier who was to take up the duty of the delivering line,

in effecting the through movement of shipment from point of origin to its ultimate destination. Yard operating practices are adjusted to fit in with this conception of obligation, even to the extent of setting aside the intermediate line in making delivery, when such delivery would expedite the movement of through traffic.

The direct delivery of traffic to the outbound carrier with the power of the delivering line, even over the rails of the intermediate switching line, as a means of expediting traf-
[fol. 312] fic is taken advantage of at a number of junctions, regardless of the fact that the intermediate switching line is paid its regular tariff charge, or credited with the cars or tonnage so handled by the delivering line direct. This has been true at St. Louis, where eastside lines have, with their own power, made direct deliveries of through traffic to west side lines under normal condition of operation.

At Des Moines delivery is made direct from the Rock Island to the Chicago & Northwestern to expedite the movement of traffic, the Transfer getting credit for the cars so delivered; at Minnesota Transfer delivery is made direct between the Burlington and Great Northern on a considerable volume of traffic, the Transfer getting credit for the tonnage so delivered. On the other hand at Kansas City, and other junction points, carriers assume the intermediate in lieu of making direct delivery with their own power, in order to insure a more prompt movement of traffic, when this is possible through an intermediate, but regardless of how the actual delivery is effected, there is a generally recognized obligation on the part of the delivering line to assume cost of delivery to outbound road haul carrier.
[fol. 313] Under the code of per diem rules of the American Railway Association, which is adhered to by all of the carriers, the line on which the railroad owned car is located, pays to the car owned as stated an amount per day for the time that the car is on its rails. If the car is delivered to a switching line or intermediate switching line, under the present rules the per diem accrual automatically is transferred from the road which delivered the car to the line on whose rails the car is located, the delivering line bearing per diem on the car up to midnight of date of delivery. After midnight of date of delivery the per diem accrual automatically transfers to the line which has re-

ceived the car from the delivering line, and in order that the switching line acting as agent for the delivering line may not bear this burden of per diem, there is a system of per diem reclaims through which the switching line bills back against the delivering line a certain amount of per diem reclaim—generally a maximum of five days—so that up to the maximum, if it is five days or three days, the switching line is reimbursed by the delivering line for that amount of per diem paid by the switching line to the car owner. That reclaim is charged against the line for which the service was performed, and that is usually, without exception that I know of, the delivering line in the case of a car unloaded or delivered to a connection through switching line or intermediate switching line. In the case of a car which is loaded on a switching line for outbound movement over road haul line that, of course, would be reclaimed against the receiving line, because the intermediate switching line is the agent of the carrier that gets the outbound haul on cars originating within a switching limit. I have not with me the last amendment to the rules which provides for the reclaim by the intermediate switching line against the line for which the service was performed. The old rule, 5, prior to amendment reads:

"Paragraph A. An amount for each car in switching service may be reclaimed by each individual switching road [fol. 314] from the road for which the service was performed. This amount shall be based upon the average number of days, not to exceed five, for cars handled in terminal switching service, except as otherwise provided in Paragraph B. Actual time required in such switching service to be determined annually or at such other periods as may be agreed upon by the roads interested, by an examination of the records of each individual switching road by the roads interested for each local territory, except that roads in any local territory may agree to the settlement of the terminal reclaims on the basis of actual time involved in handling the cars during the month for which the reclaim is made, subject to an agreed maximum number of dates on any one car. Reclaim on pick-up and diverted cars shall be determined by a plan to be agreed upon by the interested roads, and the total reclaim paid for any month shall not exceed an average of five days per car.

"Paragraph B. An amount equal to actual per diem accruing on each car loaded with live stock handled in switching service, but not including cars loaded with station live stock or merchandise which are subject to section A of this rule, may be reclaimed by each individual switching road from the road for which the service was performed; and such reclaim shall not exceed one day on any one car.

"C. No reclaim shall be allowed for an intermediate switching movement.

"D. No claim switching shall be allowed for an intra-terminal switching movement.

"E. No reclaim shall be allowed to a non-subscriber.

"F. Unless otherwise unanimously agreed to by interested roads the code of reclaim switching rules of the American Railway Association shall govern in determining switching reclaim allowance."

Switching reclaim applies to the Terminal Railroad Association of St. Louis under the clause of the rule that provides through local agreements. There is what they call a service measure plan at St. Louis whereby the intermediate line is given credit under the reclaim for the reclaim [fol. 315] paid out. That is the universal rule applied by the railroads which are subject to the regulations of the American Railway Association, including practically all of the main railroads of the United States. It is the general understanding, that the road delivering the car to the switching line is simply carrying out its obligation to make delivery of the shipment to the consignee, and that it is responsible to the switching line as its agent for the per diem on the car, as the switching lines does not deliver the shipment to an individual carrier but simply as an agent for the delivering line, the delivering line collecting the freight charges.

Cross-examination:

There are local exceptions. There may be an exception at St. Louis. The rule permits local people to handle per diem reclaim as locally agreed between the General Managers Association.

I did not make a thorough investigation of the situation at St. Louis, due to the fact that this case is a case that is

interested in by several of the lines. I had my certain territory to cover and that is what I covered. I investigated only actual physical handling of the cars that were transferred from one road to another. The method of transferring the shipments and cars between railroads at the terminals shown in my exhibit.

Page 1 of my Exhibit No. 48 does not cover all westbound traffic moving over our line. I took the traffic which showed in the accounts of the territory at Carrie Avenue. We have a Broadway yard and Broadway station, and I did not cover traffic at Broadway station, because I was simply trying to get representative number of cars to show the comparisons between the east and westbound business. It covers all through traffic that was handled through the Carrie Avenue station accounts. There would be some trans-continental in there no doubt. I do not mean that the Rock Island actually had to assume all the expense. I do not know how it was disposed of finally. This is the amount that the Rock Island paid to the Terminal in the first instance.

[fol. 316] R. C. Trovilion, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am general freight agent of the Missouri, Kansas & Texas Railroad Company, having headquarters at St. Louis. Have been connected with that road sixteen years. I am familiar with the efforts of the M., K. & T. R. R. Co. in conjunction with other west side lines, to change the practice under which the west side lines are compelled to pay the transfer charges on through freight both ways, across and via the Mississippi river, passing through the St. Louis gateway. The M., K. & T. in connection with other west side lines made a very determined effort in August and September, 1914, to change the existing practice by requiring east side lines to accept delivery at St. Louis, Mo., of carloads destined east. The east side lines refused to accept the shipments so tendered, and numerous cars were

shifted back and forth from the M., K. — T. to its east side connections. Some of the cars were moved as many as six or seven times in either direction. The efforts lasted until the end of September 1914. The Terminal Railroad Association finally served notice that they would not accept cars without the transfer charges being prepaid or guaranteed by the west side lines. The east side lines as a unit notified the west side lines they would not take care of transfer charges on shipments which the west side lines tendered them and the shipments delivered to them with bridge charges to follow would not be accepted.

On the west side of the river the M., K. & T. has a direct track connection at St. Louis only with the Burlington and with the Terminal Railroad Association, so that all of the carload deliveries and receipts to and from connecting lines, with the exception of the Burlington, are through the Terminal Railroad Association, that is, between the M., K. & T. and our west side connections. The M., K. & T. delivers to the Terminal Railroad Association for all connecting lines on the west side at Carrie Avenue, in St. Louis, Missouri, located in the district commonly known as North St. Louis. The Terminal effects delivery from the other west side lines to the M., K. & T. at Antelope Street in North St. Louis. The practice as to interchange with the [fol. 317] west side lines, with the exception of the Burlington, is that the receiving line pays the intermediate switching charge on shipments delivered to it. The only exception there is that the Illinois Traction pays the intermediate charge in both directions. The arrangement on the west side is reciprocal in every instance but that.

At Kansas City, the M., K. — T. has arrangement for interchange generally between its line and connections which, while physically through the Kansas City Terminal and other lines, has the effect of being a direct interchange because of the fact that we generally use our own power for delivering to our connections, and our connections their own power for delivering to us. The interchange in all cases is reciprocal. The strictly intermediate switching deliveries at Kansas City are with two electric lines. On the intermediate interchange with these two lines the basis is reciprocal and the receiving line pays. Between the M., K.

& T. and the Santa Fe, betwe n the M., K. & T. and the Union Pacific, and between the C. & A. and the M., K. & T. the business is interchanged on a sixty day reciprocal basis, that is, we call for and deliver the traffic sixty days and then the following sixty days the other line will do the same.

[fol. 318] As between the Missouri Pacific and the M., K. & T., business handled between the M., K. & T., Glenn Park yard, and the Missouri Pacific, South Cypress yard, is on a sixty-day reciprocal basis. The Frisco and Kansas City Terminal rails are used north and south bound in interchanging to and from the Missouri Pacific because the inbound rails into the Missouri Pacific yard are owned by the Kansas City Terminal.

Interchange between the Milwaukee, Coburg yard, and the M., K. & T., Glenn Park yard, is on a sixty-day reciprocal basis, and the Frisco and Kansas City Terminal rails are used.

Business between the Wabash, yard near Tenth Street, and the M., K. & T., Glenn Park yard, is handled over the Frisco, Kansas City Terminal, and C., B. & Q. rails, and the M., K. & T. power makes deliveries from the M., K. & T. while the power of the connecting lines effect- delivery to the M., K. & T. Where the M., K. & T. operates over the rails of the Kansas City Terminal the expense is charged by the Terminal against the M., K. & T., and vice versa to the line delivering to the M., K. & T.

At Oklahoma City, Dallas, and San Antonio interchange is direct and no intermediate carrier is employed. The only exception is at Oklahoma City where the Santa Fe has no direct interchange with the Oklahoma Railway, an electric line, and interchange, if any, is there made through either the Frisco or the Rock Island. Interchange is usually made with the Oklahoma Railway at Guthrie, where a direct connection exists with the Santa Fe. At the three points named, where interchange is direct it is in all cases on a reciprocal basis.

Exhibit No. 49 consists of 13 bills of lading, signed by commercial representatives of various east side lines at St. Louis for traffic originating there.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 49, Witness Trovilion.")

[fol. 319] Cross-examination:

Page 1 of the exhibit is a photographic copy of bill of lading of The Pennsylvania Railroad System and indicates that the shipment evidenced thereby was received at St. Louis, Mo.

It does not indicate that the property was actually received by the Pennsylvania Railroad at East St. Louis, Ill. It indicates they signed for it and accepted shipment, constructively at least, at St. Louis, Mo.

The purpose of the exhibit is to show that The Pennsylvania Railroad signed for the shipment at St. Louis, Mo., and issued a bill of lading from St. Louis, Mo., and that the man who brought the bill of lading to the office of the [fol. 320] representative of The Pennsylvania Railroad turned over a receipt, dray ticket, or some similar document for a bill of lading. The receipt or dray ticket was signed by the Terminal or the Manufacturers' Railway or whoever it was.

Other bills of lading of other lines appear to be similar and the one referred to is typical.

In an effort to obtain a change in the practice of transferring cars between the east and west side lines the M., K. & T. on one occasion tendered cars in accordance with the practice complainants insist should be put into operation. These cars were refused by the east side lines for the reason that they did not wish to change their existing practice and assume the cost of getting the cars across the river. The M., K. & T. did not at any time offer to revise the division of through charges in order to take care of the cost of the transfer.

The matter of divisions did not come up during that controversy, as I recall it.

Redirect examination:

Complainants' Exhibit No. 50 is a copy of final decree of the District Court of — United States for the Eastern Division of the Eastern Judicial District of Missouri, dated January 29, 1914, filed March 2, 1914, with amendatory order dated January 29, 1917, filed February 7, 1917.

(Said exhibit was thereupon received in evidence, marked "Complainants' Exhibit No. 50, Witness Trovilion.")

Complainants' Exhibit No. 51 consists of printed copies of the various agreements between the Terminal Railroad Association and its proprietary companies, except the admission agreement of the Cotton Belt. The agreement of the Cotton Belt Company will be in the same form as the other admission agreements.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 51, Witness Trovilion.")

[fol. 321] H. W. JOHNSON, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am car accountant for the St. Louis-San Francisco Railroad Company, with offices at Springfield, Mo.

"Per diem re-claim," in railroad parlance, means the amount of reimbursement covering per diem expense accruing on cars handled in switching service. The Terminal Railroad Association and its subsidiaries make a per diem reclaim on other railroads on through traffic, east- and west-bound, crossing the Mississippi river at St. Louis and East St. Louis, and has been following this practice for ten or fifteen years. The first sentence of Paragraph A of per diem Rule V of the per diem rules of the American Railway Association applies universally throughout the United States and reads as follows:

"An amount for each car in switching service may be reclaimed by each individual switching road from the road for which the switching service was performed."

The Terminal Railroad Association and its subsidiaries make a reclaim of that kind as to east and westbound through traffic moving across the Mississippi River at St. Louis and East St. Louis and this applies to traffic going beyond St. Louis. The reclaim made by the Terminal Railroad Association where through westbound traffic is involved is made upon the delivering carrier; in other words,

the east side line. Where eastbound traffic is concerned the reclaim is likewise made against the delivering carrier which is the west side line. The practice of making a per diem reclaim on the east side lines as to westbound traffic has been in effect at this terminal, to my knowledge, ten or fifteen years.

[fol. 322] H. W. Press, recalled as a witness on behalf of complainants, having been previously sworn, further testified as follows:

Direct examination:

Exhibit No. 52 shows the amount of transfer charges which the Frisco paid to the Terminal Railroad Association of St. Louis and its subsidiaries, the Illinois Traction System and the several wagon transfer companies for the transfer of freight across the Mississippi River at St. Louis, both east and westbound, and which transfer charges were borne by the Frisco and its connections participating in the haul west of the Mississippi River.

(Whereupon said exhibit, marked "Complainants' exhibit No. 52, Witness Press," was received in evidence.)

This exhibit consists of thirty pages. On page 1 is a grand recapitulation of the transfer charges paid on all westbound carload and less carload traffic received from all east side connections for the period from February 5, 1923, to May 31, 1925, inclusive.

From the total it will be observed that the Frisco paid the Terminal Railroad Association for the period mentioned $543,724.10 and the Illinois Traction System $6,104.92. The total on westbound carload traffic amounted to $549,829.02. For less carload traffic westbound the total amounts to $192,859.96. Combined for westbound carload and less carload traffic the total amounts to $742,688.98 for the two years and five months covered, or $26,525 per month.

That is west bound only.

On page 2 is a grand recapitulation of transfer charges paid on all eastbound carload traffic delivered to all eastern connections for the period from January 1, 1924, to May 31, 1925, inclusive. On this traffic as here shown we paid

$1,212,724.90 to the Terminal Railroad Association of St. [fol. 323] Louis and $5,072.84 to the Illinois Traction System, or a total of $1,217,797.74 for the one year and five months ended May 31, 1925.

That is still being paid in the same way.

If the amount of tonnage is based on these figures, there is delivered by the west side lines to the east side lines three times as much as that delivered by the east side lines to the west side lines. Page 3 of the exhibit is a recapitulation showing by months the transfer charges paid the Terminal Railroad Association of St. Louis on westbound carload traffic received from all eastern connections.

Pages 4 to 24, inclusive, show in detail the transfer charges paid the Terminal Railroad Association on westbound carload traffic by months and by individual roads from which the traffic was received.

Page 25 shows the transfer charges paid the Illinois Traction System on westbound carload traffic received from that system for the period in question.

Page 26 is blank for the reason that it was intended to cover the transfer charges paid on westbound carload traffic received via the Alton bridge and the Frisco received no traffic by that route during the period.

[fol. 324] Page 27 shows the transfer charges paid on westbound less carload traffic. The Frisco pays bridge tolls both ways on through l. c. l. traffic.

Page 28 shows the transfer charges paid the Terminal Railroad Association of St. Louis on eastbound carload traffic delivered to east side connections via the Terminal Railroad Association and its subsidiaries from January 1, 1924 to May 31, 1925 inclusive.

Page 29 covers the transfer charges paid the Illinois Traction System on eastbound carload traffic during the same period.

Page 30 is blank as it was intended to cover the transfer charges on eastbound carload traffic delivered via the Alton bridge and the Frisco delivered no traffic via that route during the period. The figures in this exhibit were compiled from the settlement sheets and transfer freight bills on file in the office of the Frisco station agent at St. Louis.

The transfer charges of the Terminal Railroad Association are paid by the Frisco four times a month by draft

issued by its agent at St. Louis in favor of the Terminal Railroad Association. The amount of the draft is based upon a statement prepared by its agent from the transfer freight bills.

On westbound through billing the through waybill is accompanied across the river by a transfer freight bill issued by the connecting line and on which the Terminal Company shows its pro number and the amount of transfer charges assessed. The through waybill follows the shipment to destination but the transfer freight bill is detached by our local agent and serves as his authority for draft in favor of the Terminal Company. On westbound shipments rebilled at St. Louis the west side lines issue a transfer freight bill showing all the essential information necessary in rebilling and on which the Terminal Company shows its pro number and transfer charges. This transfer freight bill accompanies the shipment across the river, is taken up by our local agent and serves as his authority for draft in favor of the Terminal Company for the amount of the transfer charges.

In rebilling, the charges into East St. Louis and the transfer charges across the river are shown as advances. The charges from St. Louis to destination, minus the transfer charges where such transfer charges are absorbed by the Frisco and other west side connections participating in the haul, are billed as freight.

[fol. 325] On through billed eastbound traffic the Frisco agent issues a transfer waybill which is attached to and accompanies the through waybill across the river. The Frisco agent determines the transfer charges from the Terminal Railroad Association tariffs, showing same on copy of the transfer waybill retained in his file. The Terminal Company shows the amount of transfer charges on the original transfer waybill which accompanies the shipment.

On eastbound rebilled shipments the Frisco agent issues a transfer waybill which accompanies the shipment across the river and which shows the same information as that which he issues in connection with the through billed shipments. From the copies of such transfer waybills on file in his office the agent prepares his statement, based upon which he issues draft in favor of the Terminal Railroad Association in payment of the transfer charges.

The manner of settlement in connection with the transfer charges paid the Illinois Traction System is the same as that in connection with the Terminal Railroad Association, except that on through billed traffic the transfer charges are not paid by the Frisco agent but are allowed the Illinois Traction System through interline settlement account. Where the transfer charges of the Illinois Traction System are paid by the agent they are paid by the station draft four times a month.

Wagon transfer companies are paid by draft issued by the agent four times a month. The wagon transfer companies are paid on a tonnage basis. On westbound traffic the east side lines, in addition to issuing transfer freight bills or pros, issue a statement of tonnage, all of which accompany the shipments across the river. When shipments are received by the Frisco agent he receipts one copy of the tonnage statement and hands it back to the driver, retaining three copies for his use and file, based on which he issues draft in payment of the charges. On eastbound traffic the Frisco agent issues a tonnage statement in addition to the transfer waybill which accompanies the shipments across the river. A copy of such tonnage statement is retained in his office and serves as draft authority.

The agent's accounts charged with the amounts of the drafts issued are cleared through station relief voucher issued by our auditor of freight accounts.

[fol. 326] The average amount per month that the Frisco pays on carload and less-than-carload traffic westbound is $26,525. The average per month that it pays only on carload traffic which it turns over to its eastern connections is $71,635 per month.

Some of the lines participating in the haul west of the Mississippi River join us in the payment of these transfer charges; that is taken care of through interline settlements.

Cross-examination:

Exhibit No. 52 covers transfer charges only on through business and does not include any local business originating at St. Louis or East St. Louis on which the Frisco paid transfer charges to the Terminal Railroad Association and in which traffic the east side lines do not participate in the haul. It does not include any of the transfer charges

paid by the Frisco that are ultimately paid by the shipper or consignee, nor does it include any transfer charges that were paid by the east side lines in connection with traffic handled to a short distance into Missouri, as Mr. Stanage explained. Coal traffic has been excluded from the exhibit as most of the transfer charges on coal are paid by the consignor or shipper.

"Q. As I understand in the case of some traffic the bridge toll is taken out before the rate is divided between the eastern and western lines; the bridge toll is taken out and set aside for the toll?

A. I found no such traffic as that included in this exhibit."

[fol. 327] I have not shown in my Exhibit No. 52 the portion of the total amount shown which has been prorated among our connections beyond on the west side of the river. That amount is included in here. As to whether that would be great or small, I could not say at all. I did not analyze the matter from that angle. Some shipments, of course, perhaps most of our shipments, would have final destination on Frisco rails. I imagine that would be the major portion of this traffic. On other shipments in which connecting line west of the river participated in the haul also participated in the bridge toll or transfer charges, I believe those amounts would not be substantial. I do not want to say they are negligible, but I say I do not think they are very substantial because the major portion of this traffic would have destination on Frisco rails. Again, even though some of this traffic is handled in connection with other west side lines, some of those lines, I understand, do not participate in the bridge tolls.

[fol. 328] H. G. Nicholson, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am special representative of the Auditor of Freight Traffic, Chicago, Rock Island & Pacific Railway Company with offices at Chicago. That position brings me into touch

with the accounting records of the Chicago, Rock Island & Pacific Railway Company.

Exhibit No. 53 was compiled from the transfer freight bills on file at the local freight offices at Carrie Avenue and Broadway Station, St. Louis, and settlement sheets which are employed in making settlements. I heard Mr. Press testify as to the method of handling the accounts between the Frisco and the Terminal Railroad Association and subsidiaries and transfer companies. The method followed by the Rock Island in such settlements is substantially the method followed by the Frisco. The charges set out in this exhibit shown as having been paid by the Rock Island are true and correct to the best of my knowledge and belief. The amount shown in this exhibit represents moneys paid from the treasury of the Chicago, Rock Island & Pacific Railway Company. The first page is a recapitulation covering transfer charges paid on westbound carload traffic received from all eastern connections for the period from February 5, 1923, to May 21, 1925, inclusive. The total of that is $181,638.37. This is followed by a number of pages setting out the payments on traffic received from individual east side railroads. The page after the one numbered 26 shows transfer charges paid on westbound less-carload traffic received from all eastern connections for period February 1, 1923, to May 31, 1925, inclusive. The total of that is $80,514.33. The next sheet is payment of transfer charges on eastbound carload traffic delivered to eastern connections by the Terminal Railroad Association of St. Louis for the period January 1, 1924, to May 31, 1925: [fol. 329] a total of $178,005.20. The Chicago, Rock Island & Pacific Railway Company continues to bear such charges.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 53, Witness Nicholson.")

Cross-examination:

By bearing such charges I mean that the Rock Island pays them out of their revenues. By that I mean the same were paid out of its revenues at its Carrie Aevnue and Broadway station in St. Louis, even though some other line or connection may have reimbursed the Rock Island in whole or in part for the money paid to the Terminal Railroad Association. I can not say as to traffic on which

the bridge toll is deducted before the rate is prorated between the connecting lines; I do not know whether that is included in the exhibit or not. The exhibit includes no coal. Coal was the only commodity that was excluded. The statement may include transfer charges for the payment of which the Rock Island may have been reimbursed in part. Coal traffic was excluded on the instructions of our Traffic Department—I did not ask for the reasons.

G. A. Hoffelder, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am Assistant General Freight Agent of the Chicago, Burlington & Quincy Railroad Company with headquarters in Chicago. My railroad experience consists of 19 years with the Burlington, in various capacities in the Traffic Department, the past five years of which was spent in Commerce Department work which entails investigation and preparation of defense data in connection with cases before the various state commissions and the Interstate Commerce Commission.

[fol. 330] Exhibit No. 54 shows the mileage of Burlington east and west of the Mississippi river. It indicates that the Burlington operates a substantial mileage east of the Mississippi river. The Burlington operates a total of 9,396½ miles of railroad in the states of Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, South Dakota, Wisconsin, and Wyoming. Our mileage east of the Mississippi river consists of 1,805 miles in the State of Illinois and 229 miles in the state of Wisconsin, making a total mileage east of the Mississippi river of 2,034 miles. The balance of the mileage consisting of 7,362½ miles lies in the territory west of the Mississippi river.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 54, Witness Hoffelder.")

On carload traffic which comes from points east of the St. Louis district and is destined to points west of the Mississippi river, delivery is made to the C., B. & Q. rails

either at East St. Louis or at St. Louis by the so-called east side lines, and in respect of this traffic the situation of the C., B. & Q. Railroad Company is, and has been, substantially the same as that of the complainants in this proceeding. I have reference to the fact that the eastern lines bear no portion of the expense of getting the traffic across the Mississippi river. That is true either on westbound or eastbound traffic. That is correct where the rate breaks on St. Louis or East St. Louis—where the through rate is the same whether made on the St. Louis or East St. Louis combination. That is the only business I am talking about. Carload traffic which is delivered to the C., B. & Q. rails by the east side lines at East St. Louis and which is destined to points west of the Mississippi river is handled by us with our own power across the bridge at Alton, Ill., [fol. 331] and which reaches our St. Louis-Hannibal, Mo., line at West Alton, Mo. We bear the bridge expense and in addition we must bear all the cost of transportation from East St. Louis. Then in addition on such carload traffic which the east side lines turn over to the Terminal Railroad Association at East St. Louis and which is delivered to the C., B. & Q. rails in St. Louis, Mo., proper, we must bear the charge of the Terminal Company for that service.

The Burlington serves many points west of the Mississippi River which are also reached by the complainants; for instance, such points as Kansas City and St. Joseph, Mo., Lincoln and Hastings, Nebr., and Denver, Colo. In addition the Burlington competes with complainants on traffic destined to points west of Denver and to points in the southwest territory.

(Thereupon at 5:15 o'clock p. m., September 23, 1925, an adjournment was had until 10 o'clock a. m., September 24, 1925.)

St. Louis, Mo., September 24, 1925—
10:00 o'clock, a. m.

Met pursuant to adjournment.

W. H. Malcolm, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am Auditor of Freight Receipts, Missouri Pacific Railroad Company.

[fol. 332] I have prepared a statement correctly showing the amounts of transfer charges paid by the Missouri Pacific Railroad Company to the Terminal Railroad Association of St. Louis and its subsidiaries, and to the various wagon transfer companies, for the transfer of westbound and eastbound through traffic received and delivered to lines east of the Mississippi river by months. As to westbound traffic the statement covers the period from February 5, 1923, to May 31, 1925, and as to eastbound traffic the period from January, 1924, to and including May, 1925.

(Thereupon said statement was received in evidence marked "Complainants' Exhibit No. 55, Witness Malcolm.")

Sheets 1 and 2 of the exhibit shows that the amounts of transfer charges paid on westbound through carload traffic received from eastern connections for the period February 5, 1923, to May 31, 1925, totaled $529,855.37. Sheet 3 shows the amounts of transfer charges on so-called merchandise traffic transported either in trucks or wagons or trap cars. In other words, l. c. l. traffic, the total for the period being $474,835.40. Sheet 4 shows the transfer charges for the transfer of eastbound carload traffic crossing the river to eastern connections for the period from January, 1924, to and including May, 1925, the total of this being $451,904.67. In this statement I noticed at the last moment that they showed nothing for the C. & E. I. That was an omission on the part of the agent, who got his wires crossed from the fact that we deliver our l. c. l. on the west side of the river; the agent overlooked the C. & E. I.

[fol. 333] These charges are all paid to the Terminal Railroad Association and its affiliated companies by the Missouri Pacific through the agents' account, which are accounts at our Seventh Street station, charged in the same manner as was outlined by Mr. Press yesterday. I think the settlements are made weekly.

Cross-examination:

The statement does not include the transfer charges on coal, westbound. I was instructed not to include coal.

On the last page of Exhibit 55 showing the eastbound carload traffic delivered to eastern connections, there is a large amount of carload traffic in addition to that shown on the sheet that was delivered to the eastern connections that did not pass over the Terminal, that came up the east bank of the Mississippi from Thebes, or was taken across at the Ivory Transfer; and the eastbound carload traffic runs much higher than the westbound, about three cars to one westbound.

[fol. 334] HERMAN MEYER, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am chief clerk to the auditor of revenue M. K. & T. Ry., St. Louis, Mo. I have prepared an exhibit showing the transfer charges paid by the M. K. & T. on traffic to the east side lines, on east bound and west bound traffic.

(Thereupon said exhibit was received in evidence, marked "Complainants' exhibit No. 56, Witness Meyer.")

I heard Mr. Press' testimony yesterday in reference to the sources from which the information was compiled and my data was compiled from similar sources, from the M. K. & T. records. The exhibit is self-explanatory.

Cross-examination:

Exhibit No. 56 includes business from Chicago, Ill., territory, and Wisconsin territory, crossing the river at St. Louis.

[fol. 335] FRANK G. JONAH, recalled as a witness on behalf of complainants, having been previously sworn, further testified as follows:

Direct examination:

I want to make a slight correction of my testimony of Monday morning, September 21. I stated that the Terminal Committee report had been based on information obtained

from the railroads in answer to a very exhaustive questionnaire sent out by the committee. I either stated or gave the impression that that was replied to and the information furnished by all railroads. There was one exception; the Chicago & Eastern Illinois did not answer the questionnaire. The information was obtained by the committee itself going to the local headquarters.

[fol. 336] Exhibit No. 57 is a description of the handling of local L. C. L. freight in the St. Louis-East St. Louis district. The facts stated therein are true and correct.

(Thereupon said exhibit was received in evidence, marked, "Complainants' exhibit No. 57, Witness Jonah.")

Referring to exhibit No. 1, the Ivory transfer is outside of the city limits of the city of St. Louis, Mo. It is about a mile south of the city limits.

Cross-examination:

Due to the fact that I have served on this committee and due to my position I am quite familiar with the East St. Louis and St. Louis terminals and know as a fact that at times those terminals are very much congested. If the lines arriving at East St. Louis from the east, or a considerable portion of them, should undertake to handle freight to be transferred to western lines across the river with their own power, instead of having it handled by the terminal association power, it would tend to congestion rather than relieving it. As to whether in my opinion it would be practical, or whether it would tend in any way to improve the service, for the east side lines or any considerable portion of them to undertake to make deliveries of freight in St. Louis with their own power, it would not now over the lines that are controlled by the Terminal Association, because the introduction of additional engines on the tracks of the Terminal, in addition to their own train movements, would tend to obstruct free movement rather than [fol. 337] relieve it.

Mr. Orcutt: "May we understand one thing definitely Mr. Roberts, before we proceed? Is coal traffic excluded from this controversy?"

Mr. Roberts: "No, sir."

Thereupon complainants rested.

Defendants thereupon moved that the complaint be dismissed.

Defendants make that motion because complainants have stated here that the controversy here is a continuation of the controversy which has continued or existed for twenty years. The Supreme Court has quite recently said that that controversy is one involving rates and divisions. The complainants have stated several times that rates and divisions are not here involved in this proceeding and if that contention of complainants be correct there is nothing here before the Commission for determination, and we ask that the complaint be dismissed.

Examiner Disque: By putting it in the record that submits it to the Commission.

[fol. 338] C. B. Sudborough, called as a witness on behalf of the defendants, having been first duly sworn, testified as follows:

Direct examination:

I have been with the Pennsylvania Railroad and its predecessors during my entire railroad career since 1897. At present I am General Traffic Manager of the Pennsylvania System, residing at Philadelphia. Up to January 1, 1925, I resided at St. Louis, Mo., and almost my entire railroad experience has been obtained right in the St. Louis district. I have made a study of the historical situation involved in the transfer of traffic across the Mississippi between the east and west side lines and the result of my investigation is as follows:

Originally the rails of the railroads operating westwardly from the Mississippi river terminated on the west bank at St. Louis, Missouri, while the rails of the railroads operating eastwardly from the Mississippi river terminated on the east bank at East St. Louis, Illinois. There were no physical connections between the rails of the roads terminating at East St. Louis, Illinois, and the rails of the roads terminating at St. Lous, Missouri.

Traffic originating east of the Mississippi river and consigned to St. Louis, Missouri, proper, or to points west thereof, had to be unloaded at East St. Louis and hauled in wagons transported on ferry boats across the Mississippi

river to St. Louis, Missouri, where it was delivered either to the consignee or to the west side line which was to carry it on to destination. Conversely, freight originating west of the Mississippi river and consigned to East St. Louis, Illinois, proper, or to points east thereof, had to be unloaded at St. Louis, Missouri, and hauled in wagons like-[fol. 339] wise transported across the Mississippi river to East St. Louis, Illinois, where it was delivered either to the consignee or to the east side line which was to carry it on to destination.

No joint through rates were published from points east of the Mississippi river to St. Louis, Missouri, or to points west thereof, and no joint rates were published from points west of the Mississippi river to East St. Louis or points east thereof. The rates from points east of the Mississippi river were made to St. Louis, Missouri, by adding to the rates specifically published to East St. Louis, Illinois, the charge for hauling and transporting such freight across the river from East St. Louis, Illinois, to St. Louis, Missouri; and the rates to points west of the Mississippi river beyond St. Louis, Missouri, were made by adding to the rates specifically published to East St. Louis, Illinois:

First, the cost of hauling and transporting the freight from depots of the eastern lines terminating in East St. Louis, Illinois, to the depots of the western lines terminating in and St. Louis Missouri, and

[fol. 340] Second, the rate specifically published by the western lines from St. Louis, Missouri, to points of destination west thereof.

Conversely, the rates from points west of the Mississippi river were made to East St. Louis, Illinois, by adding to the rates specifically published to St. Louis, Missouri, the charge for hauling and transporting such freight across the river from St. Louis, Missouri, to East St. Louis, Illinois; and the rates to points east of the Mississippi river beyond East St. Louis, Illinois, were made by adding to the rates specifically published to St. Louis, Missouri:

First, the cost of hauling and transporting the freight from depots of the western lines terminating in St. Louis, Missouri, to the depots of the eastern lines terminating in East St. Louis, Illinois; and

Second, the rate specially published by the eastern lines from East St. Louis, to points of destination east thereof.

In 1870 ferry boats suitable for transporting loaded and empty freight cars across the Mississippi river were first put into operation by the Wiggins Ferry Company.

In July, 1874, the bridge commonly called the Eads Bridge across the Mississippi river between East St. Louis, Illinois, and St. Louis, Missouri, was completed and put into operation, thus affording for the first time a means of physical connection between the east side lines whose rails terminated at East St. Louis, Illinois, and the west side lines whose rails terminated at St. Louis, Missouri.

Neither the introduction of the car ferry nor the competition of the Eads bridge made any change whatsoever in the method of making and dividing rates which had previously prevailed. The only change that was brought about was the possible substitution of the railroad freight car for the wagon in the transportation of freight across the Mississippi river between East St. Louis, Illinois, and St. Louis, Missouri.

In 1877 the Chicago & Alton railroad was completed from Kansas City, Missouri, on the Missouri river, to East St. Louis, Illinois, by the construction of a bridge connecting its tracks on the east side of the Mississippi river at East Louisiana, Illinois, with its tracks on the west side of the river at Louisiana, Missouri. Thus for the first time East [fol. 341] St. Louis, Illinois, was reached by a railroad having a substantial portion of its total mileage west of the Mississippi river. The Chicago & Alton did not then and does not now reach St. Louis, Missouri, from the west. Its line extends east and west across the state of Missouri from Kansas City to Louisiana, Missouri, where it crosses the Mississippi river to East Louisiana, Illinois, thence southwardly on the east side of such river to East St. Louis, Illinois. The Chicago & Alton did not then and does not now reach and serve St. Louis, Missouri, with its own rails. It reaches and serves St. Louis, Missouri, over the Terminal Railroad Association via East St. Louis, Illinois. Traffic between St. Louis, Missouri, and points on its lines and on the lines of its connections west of the Mississippi river moves via East St. Louis.

The Chicago & Alton Railroad desiring to compete for traffic moving between St. Louis, Mo., and points west thereof, with the roads whose rails extended westwardly from St. Louis, Mo., naturally had to and did publish the same rates as were then in effect from and to St. Louis, Mo., via such other roads. Traffic between St. Louis, Mo., and points west of the Mississippi river, when hauled by the Chicago & Alton, had to be moved through East St. Louis, Ill., Therefore, the Chicago & Alton could not charge rates from or to East St. Louis, Ill., higher than the rates from or to St. Louis, Mo.

[fol. 342] This had the effect of establishing between East St. Louis, Illinois, and substantially all points in the west and southwest, the same rates that were in effect between such points and St. Louis, Missouri, except that between a limited number of points short distances west from St. Louis, Missouri, on the lines radiating westwardly therefrom, and which could not be reached by the Chicago & Alton, and East St. Louis, Illinois, the rates continued to remain higher than the rates between such limited number of points and St. Louis, Missouri.

As the rates between points east of the Mississippi river and St. Louis, Missouri, were higher than the rates between the same points and East St. Louis, Illinois, and as the rates between East St. Louis, Illinois, and points west of the Mississippi river via the Chicago & Alton had become the same as the rates between St. Louis, Missouri, and such points, it is obvious that the sum of the rates to and from East St. Louis, Illinois, produced a less total charge than the sum of the rates to and from St. Louis, Missouri, with respect to traffic moving between points east of the Mississippi river and points west of the Mississippi river. Therefore, for the first time, namely, in 1877, East St. Louis, Illinois, became the point on which the through rates between points east of the Mississippi river and points west of the Mississippi river were made and divided. In other words, East St. Louis, Illinois, an east bank Mississippi river point, became the primary basing point for the establishment of through rates.

It is patent that if western lines other than the Chicago & Alton Railroad were to compete with the latter road for [fol. 343] East St. Louis, Illinois, local traffic and traffic

originating at or destined to points east of the Mississippi river, they had to meet the rates between East St. Louis, Illinois, and points west of the Mississippi river established by the Chicago & Alton Railroad, and in the year 1877 the west side lines voluntarily made and published rates to and from East St. Louis, Illinois, the same as their rates to and from St. Louis, Missouri.

This new route between St. Louis, Missouri and East St. Louis, Illinois on the one hand, and points west of the Mississippi river on the other hand, created by the completion of the Chicago & Alton Railroad through from Kansas City, Missouri, on the Missouri river, to East St. Louis, Illinois, by way of the Chicago & Alton's bridge across the Mississippi river between Louisiana, Missouri, and East Louisiana, Illinois, followed by the voluntary action of the west side lines in publishing from and to East St. Louis, Illinois, the same rates then published by them from and to St. Louis, Missouri, firmly fixed East St. Louis, Illinois, as the rate basing point for the establishment of through rates between points east of the Mississippi river, and also as to the point on which such through rates were divided between the eastern and western lines. This practice thus established, of using East St. Louis, Illinois, as the basing point for making such through rates and as the point on which such through rates were and are divided, has continued up to the present time, except as to rates from and to certain territories east of the Mississippi river later referred to.

No like change has ever occurred with respect to St. Louis, Missouri, that is, no eastern line has ever entered East St. Louis, Illinois, by way of St. Louis, Missouri, and no question was ever raised by the west side lines, or any of them as to the propriety or impropriety of such lines assuming the cost of the Mississippi river transfer until certain changes were made in the rates between East St. Louis, Illinois and St. Louis, Missouri, on the one hand and certain points east of the Mississippi river on the other hand.

During 1906 and 1907, in compliance with a demand made by the business interests of St. Louis, Missouri, through what was then known as the "Municipal Bridge & Termi-

nals Commission" joint through rates were published by the east side lines to and from St. Louis, Missouri, from [fol. 344] and to certain points east of the Mississippi river, which were slightly higher than the rates then in effect to and from East St. Louis, Illinois. This readjustment did not satisfy the St. Louis business interests, which strongly contend that the rates from and to St. Louis, Missouri, should be no higher than the rates from and to East St. Louis, Illinois, to and from said points east of the Mississippi river outside of a radius of 100 miles from and east of East St. Louis, Illinois.

The entire subject of joint through the rates to and from St. Louis, Missouri, from and to certain points east of the Mississippi river was reopened and after a great deal of thought and study on the part of the railroads and numerous conferences with the Municipal Bridge & Terminals Commission, the railroads decided to comply with the insistent demands of such Commission and 1908 the joint through rates from and to St. Louis, Missouri, and East St. Louis, Illinois, to and from certain points east of the Mississippi river outside of a radius of 100 miles from and east of East St. Louis, Illinois, were made the same. This was accomplished by reducing all of the rates from and to St. Louis, Missouri, and in some but not all cases advancing the rates from and to East St. Louis, Illinois. This reduction in the rates between St. Louis, Missouri, and said points east of the Mississippi river caused an appreciable loss in the revenues of the east side lines, and whilst the slight advances in the rates to and from East St. Louis slightly offset this loss in revenue, such advances did not afford the east side lines anything like adequate compensation on account of such loss.

All of the negotiations between the railroads and the Municipal Bridge & Terminals Commission concerned solely the question of rates between St. Louis, Missouri, and certain points east of the Mississippi river. It was never understood that the reduction in said rates to and from St. Louis, Missouri, would affect in any manner whatsoever the basis for making and dividing rates applicable to traffic moving between points east of the Mississippi river and points west of the Mississippi river.

After the completion of the line of the Chicago & Alton Railroad by the construction of that Company's bridge across the Mississippi river between Louisiana, Missouri, and East Louisiana, Illinois, and the voluntary action of the west side lines in extending their St. Louis, Missouri, rates to and from East St. Louis, Illinois, as heretofore [fol. 345] described, and which as before stated first fixed East St. Louis, Illinois, as the basing point for making and dividing through rates between points east and west of the Mississippi river, the west side lines further recognized the fact that the east bank of the Mississippi river had naturally and inevitably become such basing point for making and dividing such through rates by publishing the same rates to the east bank of the Mississippi river at crossings north of East St. Louis, Illinois, namely, East Hannibal, Illinois, Quincy, Illinois, East Burlington, Illinois, East Keokuk, Illinois, Rock Island, Illinois, East Louisiana, Illinois, and East Dubuque, Illinois. This fact, namely, that the east bank of the Mississippi river had naturally and inevitably become such basing point, was further recognized and accepted by both the west side lines and the east side lines during the years subsequent to 1877 in and by the various arrangements and understandings which they had from time to time for the establishment and changing of through rates between points east and west of the Mississippi river and for the dividing of such through rates whereby all such rates from time to time so established and changed were based on East St. Louis, Illinois, and the aforesaid other east bank Mississippi river crossings north of East St. Louis, Illinois, and the divisions of such rates were likewise based on such east bank Mississippi river crossings.

Since 1877 the practice of using the east bank Mississippi river points of crossing as the basis for making through rates on traffic between points east of the Mississippi river and points west of that river, and for making such east bank points of crossing the basis for establishing divisions of such through rates has remained in effect and has been recognized and accepted and followed by both the west side lines and the east side lines without objection of any kind until about the year 1908, when for the first time the west side lines questioned the propriety of such

practice at East St. Louis, Illinois, and St. Louis, Missouri, and then only after the east side lines had, in compliance with the demand of the business interests of St. Louis, Missouri, made through the Municipal Bridge & Terminals Commission, published certain rates on traffic between points east of the Mississippi river and St. Louis, Missouri, the same as the rates on such traffic between the same points and East St. Louis, Illinois, and with the knowledge on the part of the west side lines that the action by the east side [fol. 346] lines to make said rates the same to both St. Louis and East St. Louis was taken with the distinct understanding that such action should in no wise affect the making of through rates via the East St. Louis-St. Louis gateway.

There are separate switching districts on each side of the Mississippi river at St. Louis, Missouri, and East St. Louis, Illinois. The switching limits and district of St. Louis, Missouri and the switching limits or district of East St. Louis, Illinois, are separately defined in Tariff I. C. C. No. 1704, St. Louis-East St. Louis Terminal Lines switching tariff No. 1-M, issued by F. A. Leland, as Agent, of the west side and east side lines, being items 1 and 6, page 40 of said tariff. The outlines or boundaries of either switching district do not coincide or intersect at any point and the Mississippi river flows between the two.

The practice with respect to absorption of intermediate switching charges on through traffic is not the same within the East St. Louis, Illinois, district as within the St. Louis, Missouri, district. In the East St. Louis, Illinois, district with respect to through traffic the receiving line absorbs the intermediate switching charge. In the St. Louis, Missouri, district with respect to through traffic the delivering line absorbs the intermediate switching charge. This practice is indulged in by the Missouri Pacific, one of the complainants in this proceeding, which carrier is here seeking to force the east side lines to pay its transfer charge or to bear the burden via the Ivory Transfer. The Missouri Pacific publish- a division sheet covering that movement.

Proportions exacted by the Missouri Pacific for transporting carload traffic between East Ivory, Vulcan, Bixby, Dupo, Valley Junction, Illinois, and Carondolet, Ivory,

Missouri, via the so-called Ivory Transfer are published in Missouri Pacific Division Basis 2312-E; the proportions shown therein varying with the various classifications and as between commodities.

Carondolet is in the switching limits of St. Louis, Missouri.

East St. Louis, Illinois, and St. Louis, Missouri, are separate municipalities and separate industrial communities.

Specific reference is made to pages 45, 46, 47 and 48 of Leland's Tariff I. C. C. 1704 which shows the Pennsylvania, Baltimore & Ohio, Big Four, Nickel Plate, and the Illinois Central as roads terminating at East St. Louis, Illinois.

During all the years of the present controversy complainants have never offered or appeared willing to readjust divisions with the east side lines in accordance with [fol. 347] the desired readjustment of practice. While the rates from points east from the Mississippi river to St. Louis, Missouri, applying on traffic destined to points west of the Mississippi river, to which the rates from St. Louis, Missouri, and East St. Louis, Illinois, are the same the same situation prevails east bound as west bound. This is taken care of by the inclusion of a note in schedules naming rates to and from St. Louis, Missouri, published by or for the account of the eastern lines, reading as follows:

"In the absence of through rates on traffic to points west of the Mississippi river, from points named herein, routed via St. Louis, Missouri, through rates will be made on the East St. Louis combination, except when the combination of rates filed with the Interstate Commerce Commission on St. Louis, Missouri, is lower, in which case the St. Louis, Missouri, combination rate will apply. This rule will not apply via the C. B. & Q. Nothing in this item is to prevent the application of an existing lower combination via the route of movement." Page 224 of B. T. Jones' tariff I. C. C. 1534. That tariff names class rates from points in Maryland, New York, Ohio, Pennsylvania, and West Virginia, to stations in Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Missouri, New York, Ohio, Pennsylvania, West Virginia and Wisconsin. Notes similar to that in B. T. Jones' Tariff I. C. C. No. 1534, above quoted, are published in all of the tariffs of the east side lines applying from and to St. Louis, Missouri, and East St. Louis, Illinois.

To make the point clear, the provision that I have read has the effect of preventing the use of the St. Louis combination in making rates where the East St. Louis combination is the same, that is, produces the same through rate that would be produced by the use of the St. Louis combination. [fol. 348] This provision was published to preserve and perpetuate the basis for making and dividing rates on East St. Louis, Illinois, that had been in effect since 1877.

The foregoing provision with the exception of the last sentence was drawn by Mr. J. M. Jones, deceased, formerly Chief of the Bureau of Tariffs of the Interstate Commerce Commission, prior to its publication in the tariffs of the east side lines.

Prior to about January 2, 1917, the tariffs of the east side lines naming rates to and from St. Louis, Missouri, contained a provision that such rates from and to St. Louis, Missouri, would not apply on traffic originating at points in Missouri other than St. Louis. On November 23, 1916, Secretary McGinty of the Interstate Commerce Commission, under his file 59738, wrote Mr. D. W. Longstreet, Freight Traffic Manager of the Illinois Central Railroad, Chicago, Illinois, saying "The Commission has received complaint against the restriction carried in Agent Cameron's tariff I. C. C. D-80, supplements 39 and 40, I. C. C. D-94, upon the use of rates named therein from St. Louis to Central Freight Association Territory. The tariffs in question provide that the rates named from St. Louis will not apply on traffic originating at points in Missouri other than St. Louis. As illustrative of the complaint, rates on plate glass from Crystal City, Missouri, are cited. St. [fol. 349] Louis-San Francisco Tariff I. C. C. No. 6697 names a rate of 6 cents to St. Louis. This rate added to rates named in Agent Cameron's tariff above referred to would result in less through charges than rates constructed by the use of the Frisco rate to East St. Louis, plus the rate from East St. Louis, plus the bridge tolls. It is further stated by complainant that upon shipments originally consigned to St. Louis for warehousing, and afterwards shipped out to Central Freight Association points, the Central Freight Association lines would absorb the Terminal Railroad switching charges and the bridge tolls out of the St. Louis rate. This would result in less charges

upon shipments so handled than upon shipments consigned through in the first instance. In the light of the Commission's decision in the case of Isaac Josephs Iron Company vs. M. L. & T. R. R. & S. S. Co., I. C. C. 37, page 591, and 40 I. C. C. 525, and other cases involving the same question, you are requested to advise your justification for the maintenance of the tariff rule restricting the use of the rate from St. Louis, Missouri, to business originating at that point, with the apparent purpose of defeating the aggregate of the intermediate rule of the Fourth Section. Respectfully, G. B. McGinty."

Mr. Longstreet referred that communication to William Cameron, now deceased, who was then the chairman of the St. Louis eastbound freight committee, and publishing agent for the east side lines with respect to the publication of rates from St. Louis, Missouri, and East St. Louis, Illinois. Mr. McGinty's letter was reported to the various members of his committee. Subsequently a conference was held, and at a meeting of the committee held on December 12, 1916, this recommendation was adopted: "Recommended that a special committee consisting of Messrs. E. J. Hart, Junior, Chairman, W. T. Stevenson, and C. B. Sudborough be appointed to confer with the Interstate Commerce Commission regarding this matter at the earliest date." The conference was held, and Mr. Hart, as chairman of the committee, reported back to the eastbound lines as follows: "The special committee, Mr. W. T. Stevenson, Mr. C. B. Sudborough and myself, appointed at a meeting on the 12 instant to confer with the Interstate Commerce Commission regarding the application of St. Louis rates on traffic to and from points beyond, appeared before the Fourth Section Board, Mr. Jones, chief of the Tariff Division, and Chief Examiner Carmalt, in Washington, on the 19th instant." That was in 1916. "After a study of the history of the East St. Louis and St. Louis rates in general, and a discussion in which all of the salient features were brought out, we were informed that [fol. 350] the Commission might be satisfied by the cancellation of Item No. 100 in Tariff 300-C, I. C. C. D-93, 48 in Tariff 301-C, I. C. C. D-92, 78-A in Supplement No. 4 to Tariff 302-C, I. C. C. D-90, 1 in Tariff 400-C, I. C. C. D-94, 45 in Tariff 404, I. C. C. D-89, 55 in Tariff 403-B, I. C. C.

D-95, and the substitution of the following: basis for construction of combination rates through St. Louis, Missouri, and East St. Louis, Illinois. In the absence of joint through rates on traffic from points west of the Mississippi river to points of destination named in this tariff, through rates will be made on the East St. Louis combination, except when combination on St. Louis, Missouri, will be lower, in which case the St. Louis, Missouri, combination will apply," for which the Commission is prepared upon formal application, to waive the usual thirty day notice, the item to become effective in three days, which application should refer to Mr. McGinty's letter of November 23rd, file Informal Complaint 59738. It was understood that all westbound tariffs that may carry the objectionable provision would also be amended to the same effect immediately, and that the carriers desiring would also be permitted to make corrected application on short notice, and upon formal application.

"You will kindly promulgate this to the interested lines. Also speak to Mr. Morris, Chairman of the Central Freight Association, so that the entire situation may be cleared up with the least possible delay. I might add that this plan was approved pending settlement of the controversy between the eastern and western lines as to the observation of the bridge toll. It will therefore be in order for you to also inform Mr. Morris, so that he may place that matter before the Executive Committee of the Central Freight Association."

Subsequently the Interstate Commerce Commission did give the eastern lines permission to publish that rule on short notice, and the rule was first made effective some time in the early part of January, 1917.

The west side lines were not represented at any conference between the east side lines and the attachés of the Commission with respect to that restriction of the tariff, so far as I know.

[fol. 351] W. C. MAXWELL, called as a witness on behalf of defendants, having been first duly sworn, testified as follows:

Direct examination:

I am Vice President, in charge of traffic of the Wabash Railway Company, with office in S. Louis. During my entire railroad experience of over forty years, with the exception of one year, I have been located on the Mississippi river and have been in close touch with the matter of Mississippi river bridge tolls and rate-making methods and know what consideration has been given to the bridge tolls in the matter of making rates.

From the earliest record, 1876, rates between St. Louis and points in trunk line, New England and central freight association territories were made by the addition of the bridge toll to the East St. Louis rate.

In 1905 St. Louis shippers organized and enlisted the aid of the City Government, and a municipal commission was organized with the Honorable Rolla Wells, then Mayor of St. Louis, as chairman.

They insisted that St. Louis be put on the map by establishment of through rates between St. Louis and all eastern territory, enabling them to obtain through bills of lading for traffic to and from St. Louis, which they were unable to do at that time, the traffic being handled on bills of lading to and from East St. Louis.

After extended negotiations between the Municipal Commission of the City of St. Louis and representatives of the eastern roads, through rates were made effective January 1, 1906, from St. Louis to eastern trunk line territory, and westbound to St. Louis effective February 1, 1906, by adding in lieu of the actual river charges, commuted arbitraries of

Classes	1	2	3	4	5	6
Cents per cwt	2	2	1	1	½	½

[fol. 352] Those arbitraries were added to the rates from East St. Louis, thus enabling the issuance of through bills of lading.

After further negotiations, effective June 15, 1906, eastbound, and approximately the same date westbound, these commuted arbitraries were reduced to:

Classes	1	2	3	4	5	6
Cents per cwt	1	1	1	1	½	½

making a reduction of 1 cent per 100 pounds in the first two classes.

St. Louis interests, however, were not satisfied with this and insisted that the rates must be alike to and from both sides of the river, and as a result of further negotiations, the East St. Louis basis was increased from 116 percent to 117 per cent of the Chicago-New York rates, and was applied between both St. Louis and East St. Louis on the one hand and eastern trunk line territory on the other, including New England. These changes took effect approximately January 1, 1908, since which time the 117 per cent basis has been in effect.

Between central freight association territory and St. Louis, rates rates based on commuted arbitraries of

[fol. 353] Classes	1	2	3	4	5	6
Cents per cwt.	2	2	1	1	½	½

were made effective eastbound January 1, 1906, and westbound February 1, 1906. These commuted arbitraries were reduced eastbound effective June 15, 1906, and westbound approximately the same date to:

Classes	1	2	3	4	5	6
Cents per cwt.	1	1	1	1	½	½

As stated, the St. Louis interests were not satisfied with anything other than the application of the same rates to and from both sides of the river, and consequently rates to East St. Louis were advanced as shown below, effective January 1, 1908, eastbound, and approximately February 1, 1908, westbound, making the rates alike to both sides of the river. The advances in the East St. Louis rates were:

Classes	1	2	3	4	5	6
Cents	1	½	½	½	0	0

When the rates were revised to a mileage basis in September, 1917, under the Disque scale, following I. & S. Docket 965, 45 I. C. C. 254, rates were then based on St. Louis mileage, which was made by adding 3 miles for river transfer to the East St. Louis distance and applied from and to the St. Louis group, which included several nearby points east of the Mississippi river, such as Alton and Edwardsville.

Illinois Territory: The zone within 100 miles of East St. Louis, which includes the large bituminous coal producing section, was not included in the arrangement with the Municipal Commission for equal rates to and from both sides of the river. Through rates were to be published, however, to and from St. Louis on a somewhat higher basis than to or from East St. Louis. The record is not clear as to the exact amount of these arbitraries or differentials when first published early in 1906, but effective in June, 1906, the following basis was applicable to and from Illinois:

To points outside of the 100 mile zone:

Classes	1	2	3	4	5	A	B	C	D	E
Cents	1	1	1	1	½	½	½	½	½	½

over the East St. Louis rates, and to points within the 100 [fol. 354] mile zone:

Classes	1	2	3	4	5	A	B	C	D	E
Cents	3	3	3	2	2	1.5	1.5	1.5	1.5	1.5

subject, however, to the first point beyond the 100 mile zone, governed by the 1 cent differential as maximum. In other words, on the Wabash, the Boddy, Illinois, rate, distant 102 miles from East St. Louis, applied as a maximum to and from intermediate points.

Effective January 1, 1908, in line with the action taken in trunk line and central freight association territories, the arbitraries beyond the 100 mile zone were eliminated, making the East St. Louis basis cover St. Louis. The same basis continued, however, in the 100 mile zone, that is:

Classes	1	2	3	4	5	A	B	C	D	E
Cents	3	3	3	2	2	1.5	1.5	1.5	1.5	1.5

subject, of course, to the 105 mile scale as maximum. Those figures are cents higher than East St. Louis.

On the Wabash, for example, this had the effect of making the Boddy, Illinois, rates applicable as far back towards East St. Louis, as Taylorville, Illinois, 82 miles, and on some classes it extended further back than that, but on short hauls the full 3 cents per hundred scale was applied.

When the rates to St. Louis were readjusted in 1907 and 1908, there was no change made in the method of making through rates or in the method of interchanging traffic. There was no demand made at that time that the basis of making rates on traffic to and from points west of the west bank of the Mississippi river should be changed, and there was no agitation of this question until 1914, except that in 1908 the western lines demanded that the eastern roads apply the grain rates from the west side of the river and even went so far at one time as to limit their tariffs to St. Louis only, but the eastern roads refused to take less than the East St. Louis proportional rates and the western lines finally restored the old status, that is, that they made delivery to the east side of the river.

As stated, there was no further agitation of the question of the eastern lines absorbing the bridge toll on trans-Mississippi river business until August, 1914, when the western lines gave notice to the eastern lines that they would refuse to assume the bridge toll on eastbound traffic, and on August 17, 1914, representative of the eastern and southern lines sent the following notice to traffic officials of the western lines:

[fol. 355] "It was understood when St. Louis rates to and from C. F. A., Trunk Line and New England territories were published in response to demands of St. Louis commercial interests, that trans-Mississippi river traffic would continue to be handled on the East St. Louis basis.

"Of late, contrary to this understanding and long established practice, shipments from the west have been tendered by western and eastern lines without provision for the payment by western lines of the bridge transfer charge.

"This is to notify you, we will not absorb the Mississippi river transfer contrary to the provisions of the

Joint Rate Committee agreement between eastern and western roads on trans-Mississippi river traffic which provides for the east bank Mississippi river interchange of such traffic. Shipments billed to us with bridge transfer charges to follow will not be accepted. Our agents, East St. Louis and Terminal Railroad Association of St. Louis and other transfer instrumentalities have been instructed to be governed accordingly."

This agitation culminated in the western roads bringing suit in the Federal Court, which was appealed to the Supreme Court of the United States, and the Supreme Court decision, October Term, 1923, No. 425, generally known as the East and West Side Lines case, is in favor of the eastern roads.

After the agitation was started in 1914, the following committee of traffic officers was appointed by the presidents of the eastern, western and southern roads to prepare a statement of the facts covering Mississippi river bridge tolls between east side and west side lines on through traffic:

T. C. Power, Vice President, Southern Railway, Chairman, Columbus Haile, then Chief Traffic Officer, M. K. & T. Railway; S. H. Johnson, Freight Traffic Manager, Rock Island Lines; C. J. Brister, Traffic Manager, Big Four Route; F. C. Reilly, Assistant Freight Traffic Manager, Frisco Lines, and W. C. Maxwell, Vice President, Wabash Railway.

Exhibit No. 59 is a report of an impartial committee of chief traffic officers of western, eastern and southern roads appointed to develop the facts on through traffic crossing the Mississippi river at East St. Louis and other crossings.

[fol. 356] (Thereupon said exhibit was received in evidence, marked "Defendants' Exhibit No. 59, Witness Maxwell.")

This record embodies every move made from 1876 to October 1915. Particular attention is directed to the following, which are portions of the report:

[fol. 357] Page 5 shows back to April 13, 1876, the basis of rates established by the eastern roads to and from east bank Mississippi river crossings.

Pages 5 and 6, in 1877, the method of handling traffic and the rate basis to and from East St. Louis—that is, from St. Louis, that is, the bridge toll added to the East St. Louis rate, and showing the reason for western roads applying St. Louis rates to and from East St. Louis.

Page 6, 1878, shows that the Joint Executive Committee was organized in December, 1878, which consisted of representatives of eastern trunk lines and western roads. The object is shown in Exhibit A, pages 78 to 85 inclusive.

Page 6, 1879. Consideration was given to the establishment of through rates on Missouri river business via St. Louis. It was recommended that the westbound basis to East St. Louis be fixed at 116 per cent of the New York-Chicago rate.

Page 7, 1879, basis of 116 per cent fixed from St. Louis.

Page 9, 1880, shows there was a misunderstanding in fixing of St. Louis basis of 116 per cent of Chicago-New York rates on through traffic and shows the eastern lines would not allow any bridge tolls that would decrease the rates from the east side of the Mississippi river below 116 per cent of the Chicago-New York rate.

Bottom of Page 9, 1880, that the basis for adjusting rates from the points on the east bank of the Mississippi river should not be less than 116 per cent of the Chicago-New York rate, and the rates from the west bank of the Mississippi river, than is, St. Louis, Hannibal, West Quincy, Burlington, Keokuk, Louisiana, and Davenport, should be made by adding the cost of transfer, or bridge toll, to and from the rates from the east bank.

Second paragraph page 10, 1880, shows that percentages applying from Mississippi river west bank points were eliminated and outlines the percentages that were substituted from east bank points.

Second paragraph page 12, reiterates the statement that there should be no percentage basis to or from St. Louis or other west bank Mississippi river points.

There were further hearings and records as outlined on page 11 to 15, inclusive, in 1882, 1887, and 1888, which brings the situation up to 1889 as outlined on page 16.

The formal agreement, Exhibit E, page 105, is of great importance and is in effect today. This agreement is for

the establishment of through rates and divisions on traffic [fol. 358] originating at or destined to points west of the Mississippi river and points east and west, the object being as follows:

"Establishment of through rates alike via all routes not only between points on and east of the Mississippi river and the western termini of the trunk lines and east thereof, but also between points west of the Mississippi river, and such western termini of the eastern lines thereof; the preservation of the through rates thus established without evasion, manipulation or by resort to other devices."

[fol. 359] This clearly specifies in the first paragraph that through rates are to be established by applying between east Mississippi river points, East Dubuque and south thereof, to and including East St. Louis, and the western termini of the eastern trunk lines and points east thereof, rates based upon 116 per cent of the New York-Chicago rates, as proportions of through rates. This 116 per cent has now been changed to 117 per cent, but no change has been made in the principle which stands today. There has been no request or demand from the western roads for annullment of this agreement. This agreement clearly shows that the representatives of both eastern and western roads have been perfectly aware since 1889 that the rate basing point is the east bank of the Mississippi River, and that the bridge service must be cared for by the western roads.

Mr. Burg: Object to that as a conclusion of the witness.

Examiner Disque: All right.

The Witness: The western roads have known this all these years and in making their rates and in every readjustment of through rates they knew that they must provide for the bridge service.

Mr. Burg: Object to that as a conclusion of the witness.

Examiner Disque: How do you know that the western roads knew it?

The Witness: I am a member of the western roads, and have known it all these years, was one fellow that had to take care of it, and I am perfectly familiar with it.

The eastern roads on the other hand knew it was not their duty to care for the bridge service, and they have not at any time in all these years made any provisions in their rates for bridge tolls. That is the joint rate committee agreement. I would like to bring it up to date. I have another exhibit which should be presented here bebore the Powell report to show the situation today.

[fol. 360] (Defendant's Exhibit 60, witness Maxwell, being a letter from E. B. Boyd, Chairman of the Western Trunk Line Committee, dated July 20, 1922, was thereupon offered and received in evicence.)

There has been no request or demand from the western roads for annullment of the joint rate committee agreement. Mr. Boyd's letter is not an opinion: it is the demand of the eastern roads to comply with this agreement, not to vary from it in any particular. There is no reference in the letter to bridge tolls. I am only making clear about the joint rate committee agreement, the method of making rates and of dividing them between the eastern and western roads, that we have had this agreement since 1889. It is a live subject today. Mr. Boyd demands that it be observed to the letter.

Page 17, 1889, there was a further description of the territory covered by the agreement, showing that the Pacific Coast was not included, and in 1892 that the 116 per cent basis was to apply on all Mexican traffic. Page 18, 1892, there was a slight amendment to the agreement covering western termini of the Trunk Lines and points east thereof. It is also shown that what was then the 116 per cent territory is now covered at 117 per cent. The pages following pertain principally to the negotiations with the Municipal Commission and to the westbound adjustment from Trunk Line territory, which generally speaking is along the same lines as eastbound. Pages 58 to 65 cover the situation in central freight assocation territory. Effective August 1, 1889, as indicated on page 58 of the exhibit, an agreement was reached between the eastern and western carriers clearly indicating that the east bank of the Mississippi river was the interchange point, by providing that the East St. Louis rates would apply as proportional rates

to or from east bank points north of East St. Louis to Dubuque, inclusive.

[fol. 361] From the earliest record, about 1877, the rates between St. Louis and central freight association points were made by adding the actual transfer charges across the river to the rates from or to East St. Louis. This situation continued until early in 1906 when the basis was changed to commuted arbitraries over the East St. Louis rate, finally resulting in the same rates from and to St. Louis and East St. Louis in 1908. In making both sides of the river alike, the then current East St. Louis rates were increased:

Classes	1	2	3	4	5	6
Cents	1	½	½	½	0	0

When rates between central freight association points were revised in September, 1917, on a mileage basis in accordance with the Disque scale under authority of I. & S. Docket 965, 45 I. C. C. 254, St. Louis was used as the key point for a group of territory adjacent to and including East St. Louis, such as Alton and Edwardsville, and was based on 3 miles over the actual East St. Louis mileage.

Defendants' Exhibit 61 is a map showing various territories east of the Mississippi River. This map was used in connection with cases before the court and was prepared so the court and others not familiar with the rate territories might have something before them that is simple and clear. The territories defined in the map are (1) Trunk line territory and east thereof: includes all territory east of what is known as the western termini of eastern trunk lines, the termini being Pittsburgh, Buffalo, Erie, Salamanca, Wheeling and so forth; (2) Central Freight Association territory, including all the territory east of [fol. 362] the Illinois-Indiana state line, north of the Ohio River, south of the Great Lakes and west of the western termini of trunk lines as defined above; (3) Illinois-Wisconsin, consisting of that part of eastern territory west of the Indiana-Illinois state line and east of the Mississippi River; (4) Lower Mississippi Valley and Southeastern territory, including all territory east of the Mississippi River

and south of the Ohio River; (5) the 100-mile zone, or that portion of Illinois within a radius of 100 miles of East St. Louis.

(Thereupon said exhibit was received in evidence marked Defendants' Exhibit No. 61, Witness Maxwell.")

I will now take up through traffic between Trunk Line territory and east thereof, designated 1 on the map, and points west of the Mississippi River. In 1877 and back to April 13, 1876, rates between East St. Louis and Trunk Line territory and east thereof were based on 116 per cent of the Chicago-New York rate, bridge tolls being added to obtain the rates on traffic to and from St. Louis and points west thereof. In 1877 when the Chicago & Alton completed its bridge at Louisiana, Missouri, it entered the traffic between St. Louis and the west via Louisiana, thus establishing the St. Louis rates between East St. Louis and points west of St. Louis, with the exception of a small portion of nearby territory west of the Mississippi River. All other western roads at St. Louis voluntarily met the action of the Chicago & Alton, and thus established between East St. Louis and all points west the St. Louis basis of rates, which basis is still in effect. Conditions under which eastern roads made their rates on through traffic between Trunk Line territory and East St. Louis on the basis of 116 per cent of the Chicago-New York rate have remained unchanged since 1877, except for the change from 116 to 117 per cent in 1908. [fol. 363] Conditions as to the western roads under which St. Louis rates were made voluntarily by them from East St. Louis have also remained unchanged to this day. As to Pacific Coast traffic, the divisions were arranged via Chicago, Peoria, East St. Louis and all east bank Mississippi River points, each junction point being fixed on basis of relative haul of the eastern roads. In applying these divisions via East St. Louis and other east bank Mississippi River points, the eastern lines are allowed their percentage proportion without deduction of any bridge toll, and in subdivision west, 3 cents is deducted for river transfer which is prorated by all lines west of east bank points. In this case clear provision is made for the bridge toll being taken care of by the western roads. Since this case was brought by the western roads against the eastern roads on August

12, 1920, the latter filed a demand with the trans-continental roads alleging that the divisions between the trans-continental roads and the eastern roads, which provided for the payment of 3 cents per hundred pounds bridge toll at Mississippi River crossings by the western lines, were unfair to the eastern roads, and after extended negotiations the trans-continental roads granted changes in divisions approximately as follows: New England, old divisions prior to May 1, 1922, eastbound 29 per cent; westbound 32 per cent; new divisions effective May 1, 1922, 32 per cent in both directions. New York, Philadelphia, Baltimore, and so forth, old divisions, 29 per cent; new divisions 31.5 per cent. Balance of Trunk Line territory, old divisions 29 per cent; new divisions 29 per cent. The method of paying bridge toll remained undisturbed, that is, 3 cents is deducted from the proportion west of East St. Louis and all lines from the Mississippi River to the Pacific Coast prorate it on a revenue basis.

[fol. 364] On traffic between St. Louis proper and points in Trunk Line territory and east thereof, rates were made on the East St. Louis basis of 116 per cent of the Chicago-New York rates, plus bridge toll. Controversy with the St. Louis public resulted in reduced rates in 1906 and culminated in 1908 in the application of East St. Louis rates between St. Louis and practically all points east of the Mississippi River outside of the 100-mile zone. This was the result of a sentimental demand on the part of St. Louis business interests, and not of a change in the physical railroad conditions. The East St. Louis rate basis was changed to 117 per cent of the Chicago-New York rates and St. Louis made the same, resulting in an increase from East St. Louis and a reduction from St. Louis. Through rates were not reduced, and there was no understanding between east and west side lines for any change in the basis for dividing the existing rates as a result of this change in the St. Louis rates, and no change in the through rates or the divisions thereof has ever been made. Through traffic between Central Freight Association territory, designated II on the map, and points west of the Mississippi River moved prior to 1877 on rates of the eastern roads made to East St. Louis only, the bridge tolls being added on traffic to and from St. Louis and beyond. In 1877 when the Alton completed its

bridge at Louisiana, the rates of the eastern roads to and from East St. Louis extended to all east bank Mississippi River points as far north as East Dubuque on through traffic, it being the understanding during all the years since that the eastern roads had no interest in the bridge tolls on through traffic at any of the Mississippi River crossings, and they made no provision for such tolls in their rates.

[fol. 365] In the court case I testified: "This practice has remained unchanged to this date, except that the Commission has ordered some through rates from Indiana to the Missouri River cities, and they have ordered some rates from Oklahoma to the Indiana points". That part is generally true, with one or two exceptions which I am coming to now. The western roads recognized that the interchange point since 1877 was on the east bank, and made their rates with the clear knowledge that their rates were to provide for the expense of bridge service at St. Louis and at every crossing as far north as Dubuque. The above practice has remained unchanged except as follows: I. C. C. Docket 13671, Indiana-Missouri River Rate Case, through rates were established by the Interstate Commerce Commission and became effective June 1, 1925, from Indiana to Missouri River cities in one direction only; I. C. C. Docket 14087, effective May 25, 1925, through rates on petroleum and its products from Oklahoma Group III points to Indiana points were established by order of the Commission. Division of these rates is a matter of controversy and must be settled. In connection with the class rates, other than from Indiana to Missouri River, the Commission has had the following cases wherein the complainants demanded lower rates from Eastern territory to the Missouri River; I. & S. Docket 983, 14 I. C. C. 299, Burnham-Hanna-Munger Case, decided June 24, 1908. This order expired at the end of two years; I. C. C. Docket 3684 and Subs and I. & S. 24, 21 I. C. C. 546, Warnock Co. Case, decided November 6, 1911. These decisions were reaffirmed in subsequent cases. In the Warnock Case the Commission fixed proportional rates from the east bank of the Mississippi River to the Missouri River cities, Kansas City to Omaha, inclusive, which today, with the advances and reductions, are as follows:

Classes	1	2	3	4	5	A	B	C	D	E
Rates	83.5	63.5	52.5	38	30.5	33.5	27.5	23	18.5	15.5

[fol. 366] These are legal and equitable rates fixed by the Commission. If the eastern roads were obliged to take care of the St. Louis bridge toll out of their proportion, the western roads would receive the following figures higher than the legal rate fixed by the Commission:

Classes.....	1	2	3	4	5	A	B	C	D	E
Cents	5	5	5	3.1	3.1	3.1	2.2	2.2	2.2	2.2

In fixing these proportional rates between the east bank of the Mississippi River and the Missouri River points described, the rates were made the same to Kansas City whether the traffic is hauled from East St. Louis, short line distance 278 miles, East Hannibal 200 miles, or East Dubuque 473 miles, and were made the same to Omaha whether hauled from St. Louis, 414 miles, from Burlington, 295 miles, or from Rock Island, 322 miles, or from East Dubuque, 338 miles.

"Exam. Disque: I do not understand that traffic moving on these proportional rates is involved in this case.

The Witness: Sure, everything is—well, I won't attempt to answer you.

Mr. Roberts: Have those local rates been increased first five per cent, then fifteen per cent, and then twenty-five per cent, and then forty per cent?

The Witness: Whatever advances and reductions were granted to the western lines since the time they were put in.

Exam. Disque: Mr. Maxwell, were these proportional rates ever published from St. Louis proper?

The Witness: No, sir, absolutely not.

By Strasser:

Q. Wherever you have mentioned rates, they are in cents per one hundred pounds, are they not?

A. Yes, sir.

[fol. 367] In the C. F. A. Class Rate Scale Case, I. & S. Docket 965, under the Disque scale, the East St. Louis rates were established as proportional rates to upper river crossings on the east bank, on traffic from beyond, and the Central Freight Association roads are getting less than their local rates to upper river crossings on through traffic. The Commission has further recognized the east bank as

the proper interchange point in the following cases: I. C. C. Docket 8712, 46 I. C. C. 1, decided July 5, 1913, Commercial Club of Mitchell, S. D., wherein it prescribed among other things proportional rates from east bank upper Mississippi River crossings to Mitchell, S. D.; I. C. C. Docket 10316, 56 I. C. C. 147, decided December 11, 1919, and 69 I. C. C. 427, decided June 13, 1922—Traffic Bureau of Aberdeen, S. D. Case, prescribed, among other changes, proportional rates from the east bank crossings, East Burlington to East Dubuque, inclusive, to Aberdeen, S. D.; I. C. C. Docket 12709; 85 I. C. C. 502, decided December 18, 1923, Chamber of Commerce of Grand Island, Nebr. Case, prescribed, among other changes, proportional rates from east bank Mississippi River crossings East St. Louis to East Dubuque, inclusive, to Grand Island, Hastings and Columbus, Nebraska; I. C. C. Docket 14018, decided July 14, 1925, Watertown Chamber of Commerce, prescribes proportional rates from east bank Mississippi River points, East Burlington to East Dubuque, inclusive, to Watertown, S. D. Note particularly the decision was rendered as late as July 14, 1925. In all of those cases rates are reduced from the east bank Mississippi River points, rates of the western roads, to Western destinations, and rates of the eastern roads are left undisturbed.

[fol. 368] Defendants' Exhibit 62 offered and received in evidence. Consists of excerpts of numerous decisions of the Commission dealing with rates to and from the Mississippi River. That is, between eastern and western roads and western points. It shows the Commission understands all about the rates being based upon the east bank. They have sustained the rates of the eastern roads in practically all these cases, and where there is any reduction it has been in the rates of the western roads from east bank points.

As to Pacific Coast Traffic: The divisions were arranged via Chicago, Peoria, East St. Louis and all east bank Mississippi river points, each junction point being fixed on basis of relative haul of the eastern roads. In applying these divisions via East St. Louis and other east bank Mississippi river points, the eastern lines are allowed their percentage proportion without deduction of any bridge toll, and in subdivison west, 3 cents per 100 pounds is deducted

for river transfer, which is prorated by all lines west of east Mississippi river points. In this case also, clear provision is made for the payment of the bridge tolls by the lines west of the river.

Examiner Disque: I do not understand that Pacific Coast traffic is involved in this case, except such as may be formed [fol. 369] on the combination of locals, East St. Louis-St. Louis.

Mr. Hughes: Mr. Examiner, all traffic that crosses the bridge at St. Louis is included in this case.

The Witness: I direct attention to the fact that since this case was brought, August 12, 1920, the C. F. A. roads filed a demand with the Trans-Continental roads alleging that the divisions, which provided for reduction of 3 cents bridge toll at St. Louis from the proportion of the western lines, were unfair to the C. F. A. roads and after extended negotiations, the latter were granted changes in divisions approximately as follows: Bessemer group, old divisions prior to May 1, 1922, 21.5 per cent, new divisions 21.5 per cent; Pittsburgh group, old division 18.5 per cent, new divisions 20 per cent; Cincinnati-Detroit group, old divisions 15.5 per cent, new divisions 16.5 per cent; northern Michigan, old divisions 18.5 per cent, new divisions 19.5 per cent. The bridge toll deduction remained unchanged. This is a clear, voluntary acknowledgment by the trans-continental roads that divisions accorded the C. F. A. roads, despite the fact that the bridge toll is taken care of by the western roads, were unfair to the C. F. A. roads, and instead of there being any injustice to the western roads at the time this case was brought, there was an acknowledgment by them through this readjustment that the divisions were unjust to the C. F. A. roads.

In connection with rates from Central Freight Association territory to Texas, prior to the 15 per cent advance in 1917, the C. F. A. territory was divided into several groups, and through rates to Texas points were made by adding certain arbitraries from these C. F. A. groups to the East St. Louis rate. These arbitraries were arrived [fol. 370] at by taking the average of the rates from the principal points in each group, and applying it from the entire group. The making of through rates from Central

219

Freight Association territory to Texas was entirely in the hands of the southwestern lines with the full understanding by them that whatever rates they might make were subject to allowance to the C. F. A. lines of their full local rates to East St. Louis.

Effective September 20, 1917, the class rates in Central Freight Association territory were revised in accordance with the Disque scale under authority of I. & S. Docket 965, 45 I. C. C. 254, and a material advance made in the rates in the territory. At the same time the revised rates were increased 15 per cent, but this 15 per cent advance was not applied to the through rates to Texas, and as the C. F. A. roads cold not consistently demand advances to their revised local rates without a change in the through rates, their proportions were from that time reduced to less than their local rates. They are today receiving much less than their locals up to East St. Louis and other Mississippi River junctions. Naturally, if the divisions were readjusted so that the eastern roads had to take care of the bridge toll out of the proportion they are getting to East St. Louis, they would insist upon an increase in their divisions and naturally if they did not obtain such an increase and divisions were not changed via other gateways, the traffic would be diverted as far as possible to other gateways where they would have more favorable divisions. If a change is made at one junction, that is, St. Louis, relative changes should be made at all junctions.

[fol. 371] On traffic between C. F. A. territory and St. Louis proper, the bridge tolls were added to the East St. Louis rates from the earliest record, 1876, until the reductions were made in the St. Louis rates to the East St. Louis basis in 1906 and 1908, no change being made in the through rates or in the point of interchange for through traffic.

Examiner Disque: What traffic east of the river is involved in this case, what territory, Wisconsin?

[fol. 372] Mr. Roberts: Well, all traffic that moves over the Mississippi river at the St. Louis-East St. Louis gateway.

Examiner Disque: From any point east of the river?

Mr. Roberts: Yes.

The Witness: From Illinois-Wisconsin, designated III on the map, Missouri, except southeast Missouri, to Kansas, Oklahoma, Colorado, Utah, etc., the present divisions are made by deduction of 8 cents on the first four classes and 3 cents on classes 5 to E inclusive, which is a little more than the actual bridge toll, to take care of the bridge service. The bridge toll is 5 cents on first class. This money is set aside for the western roads and the roads Chicago to East St. Louis are allowed 47½ per cent of the balance to Kansas City. To illustrate, out of the present first class rate of 121.5 cents Chicago to Kansas City, the eastern roads for the haul from Chicago to East St. Louis, approximately, 284 miles, get 53.9 cents, while the western roads for the haul St. Louis to Kansas City, 278 to 283 miles, get 59.6 cents and the bridge toll of 8 cents, or a total of 67.6 cents. [fol. 373] The same rule applies with Kansas City divisions, with everything going to trans-Missouri territory, 8 cents is deducted and turned over to them, although out of that amount they pay only 5 cents.

Examiner Disque: Mr. Roberts is asking to be relieved of that 5 cents.

The Witness: No, he wants us to perform the service, and then pay him 8 cents in addition. They can get service over the bridge for 5 cents; they can get it at the transfer for less than 5. The rate is not prorated until after the 8 cents is deducted, and even in dividing the balance we get the short end. On this traffic rates were established by the short line with a haul of about 452 miles from Chicago to Kansas City, the route via St. Louis being about 560 miles. For illustration the Illinois Central and Missouri Pacific via East St. Louis met the competition of the direct lines and agreed on divisions under which the bridge toll was first deducted from the through charges, turned over to the Missouri Pacific, and that road in turn paid the bridge company the actual bridge toll. The deductions under the division sheets are as follows:

Classes	1	2	3	4	5	A	B	C	D	E
Cents	8	8	8	8	3	3	3	3	3	3

whereas the actual bridge tolls are as folows:

Classes	1	2	3	4	5	A	B	C	D	E
Cents	5	5	5	3 1	3 1	2	2	2	2	2

In this instance, the western lin are not only getting the bridge toll but an amount in excess thereof. We claim this is wrong and demand that it be corrected to actual bridge toll. I. C. C. Docket 15234 covers an investigation initiated by the Commission, regarding divisions to the western trunk lines to and from trans-continental, trans-Missouri and Southwestern territories.

[fol. 374] There were numerous negotiations at Washington before the Commission, extending from February to November, 1924, and the case was set for hearing on the Commission's own motion. Extended hearings were held at Chicago beginning February 16, 1925, but a compromise settlement was made as to trans-continental territory, under which the following approximate advances in divisions east of the Missouri River were granted: Chicago group, 14.4 per cent; St. Louis and East St. Louis, 10 per cent. The bridge toll deduction at St. Louis was left unchanged, the amount of 3 cents therefor being prorated on a revenue basis out of the proportion of the lines west of the Mississippi River. All the complainants in this case are parties to this readjustment of trans-continental divisions. They voluntarily recognized that the present method of handling the bridge toll was correct and proper. In fact, some of the leading west side complainants at St. Louis were very solicitous that there be no change in the method of handling bridge tolls in connection with trans-continental rates. It is therefore difficult to understand how they could hope to substantiate their demand in this case that eastern roads pay the bridge toll at St. Louis. Some of the interveners here, the Union Pacific, Western Pacific, Santa Fe, Southern Pacific, Great Northern and Northern Pacific hauls trans-continental traffic. It seems inconsistent that they should intervene in this case in view of their admission that not only is the present method of handling the bridge toll at St. Louis proper, but that the roads handling the traffic from East St. Louis should, in addition to continuing the bridge toll deduction as it is, have a 10 per cent increase in their revenue. The Rock Island and Missouri Pacific, which handle a large trans-

[fol. 375] continental traffic west of the Missouri river ask that the bridge toll be taken care of by the eastern roads, whereas they were complainants in Docket 15234, and not

only insisted that no change be made in the method of handling the bridge toll at St. Louis on trans-continental traffic, but demanded a 10 per cent increase in revenue, which they have obtained.

As to trans-Missouri divisions, adjustment has been made in connection with I. C. C. Docket 15234, under which divisions of western trunk line roads east of the Missouri River were increased 14 per cent to and from trans-Missouri territory, which covers a very wide territory comprising Kansas, Nebraska, Colorado, Utah, and a large part of Oklahoma; in other words, all the territory — Oklahoma and north to the trans-continental line. This traffic moves via St. Louis, via all Missouri River crossings, and via other junctions. While the divisions have been made more attractive via Missouri River and other crossings, an attempt is now made in this case to make the St. Louis gateway less attractive by decreasing the divisions through shifting of the bridge toll, and tending to dry up this gateway.

From Illinois to Texas, Mexico, Oklahoma, Arkansas and Louisiana west of the Mississippi River, there are divisions in effect for illustration, from Chicago to Texas and Oklahoma via the following junctions: East St. Louis, Alton, Cairo, Thebes, Marshalltown, Iowa, Council Bluffs, Omaha, Kansas City, Higbee, Missouri, Moberly, Keokuk, Rock Island, East Fort Madison, Baton Rouge, Memphis, Vicksburg, Natchez, and New Orleans. The divisions via all these junctions, except Keokuk, where there is no traffic interchanged, were fixed with relation of all these interchange or junction points to each other. For illustration, from Chicago to East St. Louis, haul 279 miles, percentage [fol. 376] on Texas common points 20 per cent; from Chicago to Alton, haul 258 miles, percentage on Texas common points 20 per cent. They ought to haul it down here and take the bridge toll out of it. From Chicago to Cairo, Gale and Thebes, average haul 365 miles, percentage on Texas common points 22 per cent; from Chicago to Rock Island, haul 167 miles, percentage on Texas common points, 15 per cent; from Chicago to Kansas City, haul 454 miles, percentage on Texas common points, 30 per cent. Naturally if the Illinois-Wisconsin roads are obliged to pay bridge toll at St. Louis out of the thin earnings they now

receive they will use their best efforts to divert the traffic to other gateways. In fixing the present divisions, which are unjust to the roads in Illinois and Wisconsin, the southwestern lines have known, since 1876 at least, that the point of interchange was East St. Louis and that they were aware of the fact they must stand the expense of bridge service, and this was provided for in their rates. I. C. C. Docket 15234 is also a demand of the western trunk lines for increased division from the southwestern roads. The Santa Fe and Rock Island endeavored to compromise this dispute and tendered to the western trunk lines an increase in their division of 14 per cent on southwestern traffic via all junctions. Some of the western trunk line roads concluded from data prepared by a joint committee that they were entitled to more than a 14 per cent increase. For illustration, from Chicago to Tulsa via Kansas City, the present division to roads east of the Missouri River is 44 per cent. A 14 per cent increase would give the lines east of the Missouri River 50.2 per cent. A mileage prorate would give them 63.8 per cent. From Chicago to Dallas via East St. Louis, the present division to roads east of East St. Louis is 20 [fol. 377] per cent; a 14 per cent increase would give the lines east of St. Louis 22.8 per cent, which they have not got yet; a mileage prorate would give the lines east of East St. Louis 27.8 per cent. From Chicago to Little Rock, Arkansas, via East St. Louis, the present division to roads east of East St. Louis is 28 per cent; a 14 per cent increase would give lines east of East St. Louis 31.9 per cent; a mileage prorate would give them 44.1 per cent, instead of 28 per cent. Assuming that a 14 per cent increase becomes effective, for illustration, from Chicago via Missouri River and other junctions and that the divisions via East St. Louis were decreased as attempted in this case, I think the roads operating into East St. Louis would simply divert the business away from this gateway. The Missouri Pacific, complainant in this case, has put in the 14 per cent increase in divisions to trans-Missouri territory via Kansas City and all other junctions except St. Louis; the Rock Island, another complainant, has put it in via all junctions except St. Louis to the entire west, including Oklahoma, and would probably put that in by this gateway if we would get after them. The Rock Island has offered a 14 per cent

increase on southwestern traffic, and the Santa Fe, one of the interveners, has granted the increase to trans-continental, trans-Missouri, including Oklahoma, and offered it on southwestern traffic.

On traffic within the 100 mile zone, designated V on the map, the bridge toll is added. This covers the great bituminous coal tonnage. Rates to St. Louis were formerly 20 cents per ton higher than to East St. Louis. The difference is now 25 cents. This difference is collected from the public and paid by the eastern roads to the bridge company. In the case of the western versus the eastern roads in the courts, I understand the former attempted to have [fol. 378] the bridge service cared for on a user basis. In this instance the bridge toll is a distinct unit of the rate, and the charge is collected from the public. The Wabash as a western line handles a very large movement of bituminous coal from this territory to Missouri River and Omaha. For illustration, the Southern Railway's proportion to East St. Louis on coal for Omaha is 51.7 cents per ton. In my opinion, it would be little short of a crime to ask the Southern, under the guise of a user basis, to care for the bridge toll of 30.6 cents per ton, which would leave them but 21.1 cents for their haul to East St. Louis as compared with their local rate to East St. Louis of 91 cents per ton. The Wabash considers this good practice as a western road at $2.763 per ton, its proportion west of the river, out of which is cared for the bridge service.

Defendants' Exhibit 63 offered and received in evidence.

This exhibit is a map on which is drawn a brown line. All points in Illinois between this brown line and the Mississippi River take the same rates to and from western points generally as apply from and to Mississippi River crossings. The eastern roads can therefore tender such traffic to western roads at any point west of the brown line at such junction points as Galesburg, Chapin and Beardstown, and by so doing shorten the haul of the eastern line and increase in the same measure the haul of the western line, the latter including the haul across the river, leaving no doubt as to which line is to take care of the bridge service. This shows the injustice of asking the eastern roads to shrink their revenue to care for the bridge toll, and that

the western roads apply St. Louis group rates to and from points 50 to 75 miles east of the east bank of the Mississippi River. All confusion in the handling of traffic via interior [fol. 379] Illinois is avoided by the existing practice of basing rates on the east bank of the Mississippi River on through traffic, which sould continue.

"Mr. Hughes: May I ask, Mr. Maxwell, whether any of those bridges across the river that you mention are owned by fifteen different railroads?

Mr. Maxwell: No, they are not."

I have given these few illustrations as to existing conditions and the recent readjustment of divisions between western trunk line roads and trans-continental and trans-Missouri lines, and some illustrations of divisions between western trunk line roads and southwestern territory lines, because it is necessary that the facts as to rates and divisions must be placed before the Commission, as they are the factors that must be taken into consideration in order to reach a fair decision. There has just been a settlement of the big divisions cases between roads in western trunk line territory and trans-continental roads and trans-Missouri roads, and in these cases the matter of bridge toll at St. Louis was undisturbed. These settlements have been approved by the Commission, at least, they have allowed them to go into effect, and naturally these settlements cannot be reversed without evidence that the voluntary action of the carriers in making this readjustment was clearly wrong. The question of divisions between the western trunk line roads and the Southwest will be heard on October 14th.

[fol. 380] "Exam. Disque: The Commission never approved those other divisions.

The Witness: I don't think they have, but they have allowed them to go in, so far; I will correct that."

An enormous volume of traffic interchanged between eastern and western roads crosses bridges Alton to East Dubuque, inclusive. Divisions are now in effect between those roads covering the rates between eastern points and east bank Mississippi River points, Alton and North, under which the western roads get a liberal division for their haul from Chicago junctions, Peoria and other interior junc-

tions to the east bank points, and their rates from east bank points and western points have been made with the understanding that the western roads were to care for the bridge service out of the rates west. If the eastern [fol. 381] roads were to pay bridge tolls at East St. Louis on traffic interchanged with western roads, they would be called upon to pay the bridge tolls at every crossing Alton to East Dubuque, despite the fact that the bridge toll has already been collected by the western roads from the public in the rate made to the east bank. The bridges north of Alton, except Keokuk, are owned or controlled by the roads operating over them. Over 90 per cent of the traffic that crosses these bridges, freight, passenger, mail and express is traffic other than that interchanged with eastern roads, and on such traffic the rates are made to sustain the investment in and service over the bridges. In the case of traffic handled by western roads over these bridges to and from eastern territory, the rates west of the river are made to the east bank, also to sustain the investment in and service over such bridges by the western roads. If the bridge tolls are first collected from the public by the western roads, as they are through their rates on all traffic, and again from the eastern roads on eastern traffic, the eastern roads would be called upon to sustain the investment in and service of such bridges for which they have made no collection from the public in their rates, and despite the fact that such traffic would have already yielded to the western roads in their rates sufficient to cover the bridge service. If the eastern lines are forced to pay bridge tolls they would either have to shrink their revenues, which they cannot afford to do, or increase the rates to the public.

As to whether the case known as Ex Parte No. 74 had any bearing on the question of bridge tolls:

In October, 1919, it was evident that there would be a new Transportation Act, and that the carriers would be turned back to their owners within a short time, and after the first of the year the presidents of the railroads desig- [fol. 382] nated a small committee in eastern, southern and western freight territories, which became known as Corporate Traffic Committee, to devise ways and means and submit recommendations for the best methods of meeting

or increasing the revenues so as to meet the terms of the prospective new Act. The committee in eastern territory consisted of the vice presidents of the New Haven, New York Central, Pennsylvania and myself. This committee and the others had charge of the collection of data and information to be used as evidence in the prosecution of Ex Parte 74. Upon the passage of the Transportation Act it was determined that the carriers were to receive five and one-half or six per cent upon a valuation fixed by the Commission, by groups. We then obtained, through the accounting officers, the revenues for what is known as the test year, the year ending October 31, 1919, adjusted to meet conditions arising after that period. We took into account the increase in wages and the increase in revenues which we might get to ascertain what percentage of increase was necessary upon those revenues to yield the return of five and a half or six per cent. We figured on the property investment value at the time, pending the finding of a temporary valuation, in groups, by the Commission. There was presented to the Commission data covering the operating revenues of the carriers, both gross and net, for the test year. The carriers in each group showed how much increase in dollars and cents and in percentage of the revenues for that year were needed to yield six per cent on their investment. Whether the Terminal Railroad Association made a showing or not in that case, the short roads and small switching companies were allowed the general increase allotted to the group in which they were located, in the case of the Terminal 40 per cent.

[fol. 383] Both east and west side lines, in determining their revenues, reported to the Commission for use in Ex Parte 74, treated moneys paid to the Terminal Railroad Association as expense and not as revenue. As these payments were deducted from the revenue of both eastern and western roads, they did not enter into the showing of either of the groups. Thus the needs of the western roads to produce the necessary six per cent were measured by the revenue retained by them after their payment of what they claim is a greater part of the river transfer, and increases necessary to make their revenues yield 6 per cent were awarded. Likewise, the necessities of the eastern roads were based on their revenues after the deduction of a

small part of the cost of the river transfer paid by them, and they were awarded increases sufficient to bring their revenue up to six per cent. If the cost of the river transfer be now shifted, it will result in the western carriers getting much more than the increases awarded to them in Ex Parter 74, and the eastern carriers will get less. The situation is similar in so far as these bridge tolls being shown as expenses by the western roads in their application for an increase in freight rates under Ex Parte 87, now being heard, as it was in Ex Parte 74.

The Wabash is a western railroad, and we have been obliged as a western railroad during all these years to care for the service over the St. Louis bridge. The interchange point is at East St. Louis. Out of a total mileage of 2,200 or 2,400, the Wabash has about 900 miles west of the Mississippi River. I would have been remiss and incompetent as representing a western railroad if I had not, during all these years, endeavored to provide in our rates as a western road the cost of the bridge service at St. Louis. The Wabash direct interest in this case is not vital nor material, because if the eastern roads are called upon to pay [fol. 384] the bridge toll, its loss as an eastern road would largely be offset by its gain as a western road. Probably if we got to apply it everywhere we would make an awful lot of money at Hannibal out of our bridge there. I have frankly testified in this case because I think there is no justice in the western roads' attempt to force the eastern roads to care for the cost of the bridge service. The representatives of the western roads have had the full knowledge for forty years that the western roads must care for the bridge tolls. If they have not provided for them in their rates they have been incompetent and have not managed their properties efficiently. The Wabash is satisfied with the present method of handling the bridge service, and of interchange, and as a western line, knowing that the charges are incorporated in the rates, is disposed to continue the present practice. Furthermore, any change in the basing point from the east bank of the Mississippi River at St. Louis will simply be the beginning of changes at every junction from East St. Louis to East Dubuque, resulting in endless controversy, disputes and chaos in the matter of rate making. If the practice is changed at St. Louis and the

eastern roads are obliged to care for the bridge toll in one direction, a similar situation would follow at Hannibal. The Wabash controls the bridge at that point, and could duplicate the arrangement put in at St. Louis, forcing the eastern roads, including New England lines, to prorate the bridge toll. If this is not done, the routes through Alton, Louisiana, Hannibal and other gateways, will all be more attractive than St. Louis to the eastern roads.

[fol. 385] At Hannibal, a Mississippi river crossing, the rates break the same on the east bank as on the west bank. The rates from C. F. A. territory to West Hannibal are not the same as to East Hannibal, but they are from trunk line territory; we have got a 117 per cent basis to Hannibal with only a 200 mile across there. The rates from western territory are the same to East Hannibal as to West Hannibal. Of course, those are proportional rates from the Mississippi river, which the Commission ordered to apply only at East Hannibal and not from Hannibal. So that the situation at Hannibal is very much the same as at St. Louis. The situation at Louisiana on the C. & A. is very much the same situation. That is not true at the other crossings. There are not now any other roads that cross the river at Hannibal besides the Wabash; the C. B. & Q. does not cross there; they cross at West Quincy. We do not run our own engines over the Terminal bridge from the east bank to the west bank at St. Louis; we do it the same as the other roads, with the exception of our high class merchandise train from the Seaboard, where we take the merchandise across, and run them to our house with our power. We have trackage rights over the Terminal bridge, but we pay just about the same on the carload business, and identically the same on the less than carload; it is a trifle less.

The joint rate committee agreement, effective January 1, 1889, is a wonderful agreement and should be continued. The point of interchange between east side and west side lines should be where the rates break, or in case of through rates and the carriers by agreement as to divisions have fixed upon the interchange point.

[fol. 386] "Exam. Disque: These rates break at St. Louis as well as East St. Louis.

Mr. Maxwell: They break at East St. Louis.

Exam. Disque: And they break at St. Louis, too.

Mr. Maxwell: Well, the Missouri river rates do not."

Between Trunk Line, New England, C. F. A. territories and trans-continental territory, the arrangements for handling this traffic are all covered by agreed divisions on East St. Louis, and provision is made in these agreements that the bridge toll is to be taken care of by roads running from East St. Louis west. The definite interchange point in this case is East St. Louis, not St. Louis. Between New England, Trunk Line, C. F. A. territories and trans-Missouri territory, the rates have, since 1877, been based upon East St. Louis and the east bank crossings, East St. Louis to East Dubuque, inclusive, and this practice is covered by the joint rate committee agreement, which has been the stabilizing factor in the rate situation and is very live and is in effect today, and the western roads insist that it be carried out in minute detail, as evidenced by Exhibit No. 60, Mr. Boyd's letter. The interchange point for this traffic is at the rate-breaking point, East St. Louis. We could not interchange it over here as all the facilities are on the other side.

Exam. Disque: The tariffs you publish make the rates, and not the agreement between the carriers; the tariffs that you publish make both St. Louis and East St. Louis the breaking point.

[fol. 387] —. Between New England, Trunk Line, C. F. A. territories and Missouri River points, Kansas City to Omaha, inclusive, the situation was identical with that to Trans-Missouri, as previously described, the rates breaking on the east bank Mississippi River combination and that situation is still in effect except that the Interstate Commerce Commission ordered the western roads in the Warnock case, 21 I. C. C. 546, to reduce the rates and fixed proportional rates for the western roads, East St. Louis and other east bank Mississippi River points being the interchange points. If the eastern roads be now required to pay the bridge toll at St. Louis they would have to shrink their revenues accordingly and the western roads would receive a corresponding amount in excess of their legal rates fixed by the Commission.

There are no through rates published between New England-Trunk Line territories and the southwest, the rates being made in each case on the East St. Louis combination, therefore East St. Louis is the interchange point. Be-

tween C. F. A. territory and the southwest there are a set of through rates in effect under which the interchange point has always been at East St. Louis and the divisions prior to September 20, 1917, provided that the central freight association roads were to get their local rates, although at the time of the revision of class rates under I. & S. Docket 965 they were unable to get the southwestern roads to increase rates so as to provide for the 15 per cent increase.

Between Chicago, the State of Illinois and Trans-Missouri territory, every through rate is covered by specific agreement for divisions based on East St. Louis under which something in excess of the actual bridge toll is deducted and given the western roads. The interchange point is always East St. Louis.

[fol. 388] "Between Illinois, Wisconsin, and Texas and Louisiana: There are agreed divisions via East St. Louis and seventeen other junctions, and for this gateway East St. Louis is the interchange point, under the agreed divisions.

Illinois-Wisconsin to Arkansas: Roads north of East St. Louis get very low proportional rates to and from East St. Louis as illustrated by the fact that Chicago to Little Rock the proportion of the roads north of East St. Louis is 28 per cent, whereas a mileage prorate would give them 44.1 per cent, and they are seeking a readjustment of these divisions which case is to be heard before your Honor, and will be definitely disposed of at that time. The interchange point is East St. Louis.

This leaves but the 100 mile zone on each side of the river in which the rates are made on a combination upon St. Louis and the point of interchange is St. Louis.

It is evident from the above that the interchange point over all these years, since 1877, has been East St. Louis, and the general custom there is the same as it is throughout the United States. In other words, the intermediate expense at East St. Louis is borne equally by the receiving and delivering lines."

[fol. 389] The Cotton Belt and Missouri Pacific have their own rails into East St. Louis and are begging for southwestern business under current conditions. These roads prefer to handle that business by their own facilities rather than by the Terminal Railroad at St. Louis.

As for western business, the Chicago & Alton and C. B. & Q. are at East St. Louis with their own rails, and are begging for western business. They do not handle it through St. Louis, because they have much cheaper tolls and much more satisfactory arrangements via Alton, Illinois, over the Alton bridge, and via Louisiana. The Wabash is at East St. Louis, begging for western business on the same terms as the Chicago & Alton and C. B. & Q., using its agency the Terminal Railroad between its connections and the Wabash west. The Frisco and M. K. & T. have a competitive condition which they have had to meet, and that is the reason they have met it. The Rock Island, Wabash and Missouri Pacific have had a competitive situation with the Chicago & Alton and Burlington, which they have been obliged to meet all these years, and the western roads have, or should have, known that they must take care of this service and provide for it in their rates.

Examiner Disque: Mr. Maxwell, the testimony that you have given deals both with cases where joint rates are in effect and proportional rates are in effect, with combinations, where the combination of locals is the same on St. Louis as on East St. Louis. I am only interested, or I am particularly interested in the latter case, where the rates [fol. 390] break on St. Louis and East St. Louis, where the rates are the same on both gateways. Now, let's forget the history of all that; will you add to your testimony now something summing up what you have said, giving your reasons why if the western lines pay the bridge charge eastbound the eastern lines should not pay it westbound?

[fol. 391] "A. The answer to the question is that the bridge tolls are included in the rates of the western roads. The eastern roads never have included one dollar of expense, of the cost or expense of crossing the bridge, in any of their rates, at any time.

Q. I do not understand that statement. They have published rates to St. Louis, and have thereby included the bridge charge; I do not understand your statement.

A. Well, I believe you understood why we had to publish rates to St. Louis; I have endeavored to make it clear why we did that.

Q. You did it voluntarily, on the pressure of St. Louis?

A. Yes, sir.

Q. But you did it?

A. We did so.

Q. Yes, and the lines west of the river published rates to East St. Louis because they were compelled by competition with the Alton?

A. Yes, sir.

Q. You have both done it, and you are both in a bad fix about it; the western roads are willing to pay the transfer to East St. Louis, and I am asking you why the eastern roads should not pay it to St. Louis?

A. We are talking now only of where the rates break on St. Louis?

Q. Yes, sir.

A. That would not include any transcontinental business?

Q. No, I am forgetting any arrangements like that.

A. Any Texas business?

Q. Yes.

A. Where the rates are definitely fixed?

Q. Yes, on proportional rates.

A. I claim that we should have had time, if we are going [fol. 392] to take care of the bridge toll on through traffic to readjust the rate structure so that we could get some of the money for that expense. They have got it in their rates today.

Q. You mean the rates to St. Louis from the east should be increased?

A. Well, I do not think they should.

Q. How would you adjust the rates?

A. Adjust our arrangements with western roads so that we might raise the rates. Yes, you would have to raise it somewhat.

Q. To St. Louis?

A. On the traffic there; somewhat. You take the rate from New York to St. Louis, or Boston to St. Louis, it is a very thin rate.

Q. Nothing in this record to show that.

A. Well, I do not think it is necessary to go into that, now; I have stated that we could not afford to stand any reductions.

Q. Your answer to my question is that the eastern roads could not afford to, it would make their rate too low, they could not afford to do it?

A. The answer to your question is that it would be unfair to place it upon the eastern roads, without giving them a long time to readjust their rates, and furthermore, there is no facilities in St. Louis for a general interchange, the whole point is that it could not be handled in any way other than at East St. Louis; the interchange would go on just the same as now.

Q. I did not get your answer; what do you mean by adjusting their affairs so they can take care of themselves?

A. I think the rates of the eastern roads should be raised somewhat, and the rates of the western roads shrunk somewhat, if you are going to try it on that through traffic.

Q. Well, you mean that rates should no longer be made on combination of locals; through rates ought to be established, then, is that it?

[fol. 393] A. I think that is coming very fast. We have got this whole division controversy here at every one of them, now, we are going to have it at every single rate; there will be no question of Mississippi river bridge toll within a short time. I mean this controversy will be automatically wiped out; somebody has got to decide how the rates are going to divide at the Missouri river, and somebody has got to decide those petroleum rates. That is only the beginning of the end of this whole thing.

Q. But the western lines have published rates to and from East St. Louis, and the eastern lines have published rates to and from St. Louis; the western lines are willing to pay the transfer in one direction, why should not the eastern lines pay it in the other?

A. There are plenty of people over there ready to take our business today just as it stands; why should we bring it over here? We are one of them, and the Chicago & Alton is another, and the Burlington is another."

[fol. 394] With respect to the statement by Mr. Roberts that during all these years the directors of the Terminal Railroad Association, because a majority of them represented Southern and eastern lines, had prevented the putting into effect a plan under which the eastern roads would take care of the bridge service in one direction and the western roads in the other direction, I can state that as directors of the Terminal Railroad Association they have had nothing whatever to do with it, and gave no instructions whatever. It was referred by the directors of the Terminal to the highest

officials of the railroads, and they appointed this traffic committee. Naturally the directors of the Terminal, knowing that they were already paying to the western roads the bridge toll on a great deal of traffic, would not attempt to saddle it on them again. The Terminal merely wanted its money, it did not care where it got it.

Complainants' Exhibit No. 5 (Stanage) consists of a lot of correspondence in 1908, and minutes of meetings of the same year, with reference to the attempt of the west side lines to force the east side lines to absorb the transfer charges on grain and grain products handled under transit from St. Louis Elevators and mills. I quote from a letter from W. B. Biddle, dated August 31, 1908, sheet 25 of the exhibit, to B. B. Mitchell, then general freight traffic manager of the New York Central Lines, as follows:

[fol. 395] "My thought has been all along that this was something that necessitated some shrink in the earnings of the lines, and that under the circumstances it ought to be approached by both eastern and western lines in a spirit of conciliation, and with a view of determining what was fair to both, letting each interest bear its share of the burden, and not, as I understand has been the case up to this time, forcing the western roads to do something in the way of these absorptions that competition and peculiar conditions among themselves have heretofore resulted in their doing."

Mr. Biddle says this is a matter that ought to be approached by the eastern and western lines in the spirit of conciliation, letting each bear its share of the burden. I say that putting St. Louis on the map never cost the western roads one dollar, but the eastern roads were obliged to make a lower basis of rates from central freight association and trunk line and New England territory. This exhibit contains a couple of letters dated 1911, regarding a meeting with the eastern lines, in which was a lot of correspondence of 1914, regarding two or three meetings. In other words the subject was practically dormant from 1908 until 1914, when the western lines again attempted to force the eastern railroads to absorb the transfer charges, which resulted in definite notices of the eastern roads, shown on sheets 31, 32, 54 and 63 of the exhibit. The subject of wagon transfer of freight between St. Louis and East St. Louis has no bearing on this controversy. It is a matter regarding which competition between carriers has gradually forced all the

[fol. 396] railroads into very bad and wasteful methods, which the railroads are trying to improve in the interest of service, economy and efficiency. Some of the western lines are absorbing as much as 7 cents per hundred pounds on carload freight when they can get it down for half of that by using the Terminal. In connection with the question asked Mr. Rausch about the interchange at East St. Louis through the Terminal, I have taken our August interchange and it shows that on cars received from the Missouri Pacific by the Wabash, 85 per cent was handled on the east side and but 15 per cent crossed the river on the Terminal facilities. Of the cars delivered to the Missouri Pacific, 3,908 delivered and moved via Dupo, and 76 per cent of the total; 288 cars, or 21 per cent, used the facilities of the Terminal. In other words they are over there at the current rates; it is not over here and never would be.

Cross-examination:

On local traffic originating at St. Louis going east, or destined to St. Louis, we take care of whatever expense is attached to getting the traffic over the river, in accordance with our tariff. We handle only merchandise with our own power and occasionally take a carload of freight from one of our tracks, but all other carload business reaches us through the Terminal. We run our passenger trains right into the Union Depot. The division sheets confirm the deduction of 8 cents on class traffic from Illinois and Wisconsin territory to Trans-Missouri territory.

Thereupon at 4:30 o'clock p. m., on Sept. 24, 1925, an adjournment was taken until 9:30 o'clock a. m., of the following day, Sept. 25, 1925.

[fol. 397] St. Louis, Mo., September 25, 1925—
9.30 o'clock, a. m.

Met pursuant to adjourment.

F. C. Furry, called as a witness on behalf of defendants, having been first duly sworn, testified as follows:

Direct examination:

I am Assistant General Freight Agent of the Illinois Central Railroad at Chicago, Illinois. I have held that

position about twelve years, and have been in the traffic department of the Illinois Central over twenty five years, during all of that time holding various positions in that department.

There are through published rates on classes and commodities from points in Illinois and Wisconsin to points in Texas, Arkansas, Louisiana (west of the Mississippi) and Oklahoma, published by F. A. Leland, acting as publishing agent for the Southwestern roads. These rates apply via various junctions, such as East St. Louis, Gale, Memphis, Vicksburg, Baton Rouge, New Orleans, and so forth, dependent upon the destination. These rates divide by allowing the line to East St. Louis, Gale, Memphis, and so forth, percentage proportions of the through rates or specific proportions in cents per one hundred pounds. The divisions on East St. Louis to Texas points are published in Southwestern Lines' Division Sheet No. 40, issued by F. A. Leland, agent for the Southwestern roads. There has never been any request made by the Southwestern lines for the establishment of divisions on St. Louis. In making rates from St. Louis to Chicago, we would take into consideration among other factors the out of pocket cost in getting freight from St. Louis to our rails in East St. Louis, the distance, and the out of pocket cost of making delivery at destination. In making rates from St. Louis [fol. 398] which would apply over the Illinois Central to a destination on one of our connections in Illinois, we would also take into consideration the expense necessary to get the traffic to our rails in East St. Louis. In fixing a basis for dividing such a through rate, we would also take into consideration such expense. There are, generally speaking, published through rates on classes and commodities from the Mississippi Valley to the territory west of the St. Louis gateway on traffic which would move through St. Louis. These rates divide by the use of agreed percentage divisions to and from East St. Louis, or by allowing the lines west of East St. Louis specific proportions in cents per hundred pounds. As a typical example, the rate on a given class or commodity from New Orleans, Louisiana, to Kansas City, Missouri, divides by allowing the lines south of East St. Louis, Illinois, sixty per cent and west of East St. Louis, forty per cent. We have been able to trace this

basis of dividing rates back to 1898, but they undoubtedly were in effect prior to that time, because in my experience I have never heard of any other divisions between New Orleans and Kansas City, other than those stated. There has been no request at any time by the west side lines for the establishment of divisions from the Mississippi Valley territory to the territory west of St. Louis, on St. Louis. In handling traffic from the Mississippi Valley to East St. Louis, intended for points west of East St. Louis, the Illinois Central crosses a large river, the Ohio, at Cairo, Illinois. There are no bridge tolls set aside at this Ohio River crossing on traffic moving to destinations west of St. Louis. The Illinois Central takes care of this expense out of the proportion south of East St. Louis, and the transfer charge across the Mississippi River from East St. Louis is taken care of by the lines west of East St. Louis.

[fol. 399] We operate over our own bridge at Cairo. The Mobile & Ohio also uses that bridge.

The freight station of the Illinois Central at 12th and Poplar Streets in St. Louis is owned by the Terminal Railroad Association, and is used in part by the Illinois Central for receipt and delivery of some less than carload and carload freight for St. Louis proper.

The tracks on the Pennsylvania Railroad property are owned by the Pennsylvania Railroad, and are used for the receipt and delivery of St. Louis carload freight.

The team tracks located on property of the Pennsylvania Railroad in St. Louis are also used for St. Louis proper business by the shipper or consignee. The Illinois Central does not place cars on those tracks with its own engines and crews. It is done by the Terminal Railroad Association. None of these facilities are used for the handling of through traffic passing through St. Louis, and they could not be so used. The Illinois Central does not run its freight engines and crews into St. Louis. They stop at East St. Louis. The situation described as to specific divisions from points in northern Illinois and Wisconsin to the Southwest is similar to that in connection with the C. & E. I. on similar traffic, the divisions received by the C. & E. I. up to the east bank of the Mississippi River and the divisions to roads beyond being the same.

Cross-examination:

Rates from the Mississippi Valley points to St. Louis and [fol. 400] East St. Louis are generally the same.

Redirect examination:

About 99.99 per cent of the traffic interchanged between the east side lines at East St. Louis, not crossing the river, is covered by through rates.

Recross-examination:

The rates from Chicago generally on classes and commodities to St. Louis and East St. Louis are the same. There are exceptions.

[fol. 401] (Mr. Larimore:) Mr. Examiner, I want to add to Mr. Roberts' objection that had been made by him to the introduction of testimony as to rates and divisions, and move that the testimony be stricken out, for the further ground that the matter of rates and divisions are no defense to an unlawful, wrongful, unjust and discriminatory practice.

Examiner Disque: Have any of your witnesses indicated, Mr. Larimore, wherein the discrimination lies that you and Mr. Roberts have spoken about?

Mr. Larimore: Under Section 3 of the Act.

Examiner Disque: I mean have you put in facts to cover Section 3?

Mr. Larimore: Oh, yes, we have.

Examiner Disque: All right.

Fred H. Behring, called as a witness in behalf of defendants, having been first duly sworn, testified as follows:

Direct examination:

I am commerce agent, Southern Railway System, Washington, D. C. I was with the Gould Lines for seven years and with the Southern since 1891. I have been employed at St. Louis for the Southern, and am familiar in a general way with local conditions in St. Louis. The lines com-

peting from the South for St. Louis and East St. Louis traffic made their entry into these points over short independent carriers long before they were absorbed into their present systems. Until late in the seventies there were practically no industries in East St. Louis, that point being in fact a railroad terminus for lines reaching out for traffic to and from St. Louis and the west. I recall when [fol. 402] the majority of the roads reached the river front on the east side on trestles, and the filling in of the tracks and ponds around those trestles built the foundations and solid ground on which the railroad yards and many of the large industries are now located. Now, as to the east side routes: In 1861 the first rail routes from the South to East St. Louis was created by the completion of the Mississippi Central Railroad, now the Illinois Central, from Canton, Mississippi, to a point opposite Cairo, Illinois, in 1860, to join up the lines from New Orleans to Canton, with the Illinois Central Railroad operating north from Cairo, which had been completed in 1855, and running through Duquoin, Illinois, with the Belleville & Southern Railroad running from Duquoin to Belleville, Illinois, and the St. Louis, Alton & Terre Haute Railroad's Belleville Branch railroad running from Belleville to East St. Louis, which roads were put in operation in 1861, and later operated by the St. Louis, Alton & Terre Haute Railroad as the Cairo short line division upon the lease of the Belleville & Southern Illinois by that line in 1866. The line of the Memphis & Charleston Railroad running from Memphis to Chattanooga, Tennessee, completed in 1858 joined these lines in reaching the Southeast as well as the L. & N. Memphis division completed in 1860. The second route was that of the Mobile & Ohio, which was completed to Columbus, Kentucky, in 1861. At Columbus the freight was transferred by river steamers to Cairo, 24 miles distant, for delivery to Illinois Central, in connection with the Mississippi Central Railroad. The M. & O. likewise connected with the L. & N. and Memphis & Charleston Railroad for traffic from the southeast. The M. & O. was completed to East Cairo in 1882, and in 1886 absorbed the narrow gauge Cairo & St. Louis Railroad, changing the gauge the same year and making it an all-rail carrier from the south to East St. Louis.

[fol. 403] The third route to East St. Louis was that of the St. Louis & Southeastern Railroad, now the St. Louis division of the L. & N. R. R. In 1872 the St. Louis & Southeastern completed and opened its line from Nashville, Tennessee, to East St. Louis, joining the N. C. & St. L. Railway at Nashville for southeastern traffic. Since that time the Cotton Belt, Missouri, Pacific and Southern Railway have formed through lines to East St. Louis. As to the west side lines, the first to reach St. Louis from the Southeast was the St. Louis, Iron Mountain & Southern. In 1871 the Iron Mountain completed its line to Belmont and installed two transfer boats to operate between Belmont, Mo., and Columbus, Kentucky. The M. & O. which completed its line to Columbus in 1861 was operating by river steamer through Cairo and the Illinois Central beyond to East St. Louis. When the Iron Mountain installed the transfer boats in 1871 the traffic via the west side lines to St. Louis was opened. After the M. & O. extended its line to East Cairo in 1882 th eIron Mountain operated the Columbus branch of the M. & O. as late as 1901. The second line was formed by the N. C. & St. L. in 1871 on its absorption of the Nashville & N. W. Railroad, running from Nashville to Hickman, Kentucky, and the transfer boats to Belmont. From the operating history it would appear that the Southeast was opened to East St. Louis in 1861 by the Eastern lines and not until 1871 by the western routes to St. Louis. Prior to the entry of the Iron Mountain the St. Louis shipper or receiver got his freight by dray from East St. Louis and used the ferries for crossing the river with his drays. Until the completion of the Eads bridge in 1874 car ferries were used in transferring solid cars across the river, supplemented by the bridge after that time. When [fol. 404] the C. & A. completed its line in 1877 into East St. Louis from the west, and made the St. Louis rates applicable therefrom to the West, the interchange between the southeastern lines and the western lines at East St. Louis was the same as from Official Classification territory, for one reason, that the carriers operating from the Ohio River to East St. Louis were more or less independent of the Southern carriers, and for another that the rates from the south were made on the Ohio river basis, that is, com-

bination of the rates of the southern carriers to the Ohio river added to very low rates of those lines from the Ohio river to East St. Louis. The interchange then between the southern lines and the western lines on Western traffic has been at East St. Louis since that date, and it is the present point of interchange. Where the Southern Railway, for example, participates in traffic from the South, it receives from New Albany to East St. Louis exactly the same revenue as is allowed north of Cairo Metropolis or Evansville. The Ohio and Mississippi River combination basis does not only apply as to St. Louis and East St. Louis, but applies to the entire territory west of the Mississippi with the exception of portions of Arkansas, Oklahoma and Texas where differentials are applied over the St. Louis rates, but even in those cases the western lines accept the freight at the east side of the river. I wish to point out that on traffic from the south to the west on rates applying via Memphis, Columbus, Hickman, or Thebes, moving through those gateways, thence up the west bank through St. Louis, the bridge toll or transfer over the Mississippi River is incurred by the western lines in all instances. None of the eastern lines have rails to the west side, and all of the western rails come to the east side. The western lines pay the bridge charges on traffic at Memphis for Arkansas.

[fol. 405] Mr. Larimore: Is it his testimony that on traffic crossing the river at Memphis that may thereafter come to St. Louis, that the shipper does not pay the bridge charge?

Mr. Walker: His testimony is that the southeastern lines pay the bridge toll in no instance.

On traffic to points north and west of St. Louis, except or nearby local points within specific limits, the rates of the western lines include the bridge toll of the crossing or the points can be reached via East St. Louis and the C. & A., Burlington, Wabash or Missouri Pacific, who have their own means of crossing the Mississippi River. Generally the rates, however, from the southeast make on the Ohio or Mississippi River combination and not on St. Louis or East St. Louis, with the exception of a few joint through rates on a few movin geommodities, I know of no instance where the rates are made on the St. Louis-East St. Louis combination. Generally the rates from the Southeast mov-

ing to East St. Louis for points in the West are made by local or proportional rates up to the Ohio and Mississippi River- added to the proportional rates from the Ohio or Mississippi River to western points. I do not include Kentucky in the southeast. To points in the west and southwest, the Memphis, Vicksburg and New Orleans routes are open and the toll is taken care of by the western lines which reach all of the east bank crossings with their own facilities at those crossings. So that to the limited territory in Missouri within a small radius of St. Louis, the bridge toll is taken into the western lines' rates, or, if through divisions are in effect, they take care of it, the southern lines taking care of the Ohio river bridge toll to reach the north bank points on the Ohio River. The rates from and to the northwest and western points in western trunk line [fol. 406] territory were made on Memphis, Cairo and Evansville combination, and had their origin in the completion of the lines of the Kansas City, Fort Scott & Memphis, now part of the Frisco from Kansas City to Memphis. That line set the rates between Kansas City and Memphis on the low western trunk line basis operating between the Missouri River and East St. Louis and Chicago. The routes, such as the Missouri Pacific and Burlington and Rock Island, through East St. Louis, Cairo and Evansville, to meet this situation, established proportional rates between Cairo and Evansville and the Missouri River to equalize the Memphis combination basis making the rates between the Missouri River and Ohio River as much less than the rates applying between Memphis and the Missouri River as the Cairo and Evansville rates to and from the southeastern territory were higher than the rates between Memphis and the Southeast. Those proportional rates were then divided on per cents established by the western lines, which lines assumed the St. Louis bridge toll, while the southeastern lines assumed the Ohio River bridge toll in making delivery to and from the north bank of the Ohio River. The proportional rates from Cairo and Evansville to the northwest until Ex Parte 74 advances disturbed them always theretofore equalized the Memphis combination, which they do not in all cases do at the present time.

On trans-continental traffic the Commission in 95 I. C. C. 404, January 19, 1925, increased the proportions of the

southern lines from East St. Louis, an average of 2½ per cent on eastbound traffic, recognizing the fact that the lines from East St. Louis to the southeast were not receiving enough out of the rates from the Pacific Coast. The westbound divisions, however, are still on the old low basis to the Mississippi River. The transcontinental proportions [fol. 407] are net to the southeastern lines. To destinations in territory from Minneapolis, Missouri River, Colorado-Utah territory, Oklahoma and Texas and territory reached through those states the southeastern lines do not pay the bridge toll at any point across the Mississippi River at St. Louis, Thebes, Columbus and Hickman, Memphis, Vicksburg, Baton Rouge or New Orleans, and here at St. Louis we are now met with a request to pay the charge when traffic from the southeast through this gateway is more competitive than all the crossings of the Mississippi south thereof.

Defendants' Exhibit No. 64 is a map of the United States showing the principal lines in the southeast in straight lines, the Southern Railway System lines being shown in red. The river crossings from New Orleans to East St. Louis are shown in yellow dots with Chicago and Peoria and the routes to those points by which traffic moves and can move without the imposition of the East St. Louis-St. Louis bridge deduction from the southeastern carriers' revenues—even in connection with the Rock Island and other lines through Peoria. The territory which can be so reached is shown in broken lines. The first route, the Illinois Central, for instance, can run all the way from Birmingham to Omaha across the entire state of Iowa without crossing the St. Louis bridge. While rates to the northwest are made on Ohio and Mississippi River combination, the Omaha rates from Birmingham and Atlanta are made on Memphis combination. Lines other than the Illinois Central routing via the rate making gateway would deliver the traffic at Memphis to the Frisco or Missouri Pacific. The Memphis bridge toll is in the rate from Memphis, on the east bank of the river, and those carriers could take the freight either via St. Louis or their western lines via [fol. 408] Springfield and Fort Smith, respectively. The M. & O. could take it to Columbus, Kentucky, and Cairo,

Illinois, and deliver to the Missouri Pacific, or could take it to East St. Louis and deliver to the C. & A., C. P. & St. L., or C. & E. I. for delivery to the C. R. I. & P. at Peoria, or the C. B. & Q. and Wabash for movement by their own rails, or the C. & A. and its connections without ever touching St. Louis. When the freight reaches East St. Louis the keenest competition St. Louis routes versus East St. Louis routes is felt and the southeastern lines do not feel that it is their competition when they are ready to deliver to all competitors on the same basis. The yellow lines from Cincinnati, Louisville, Evansville and Cairo to Chicago and Peoria must not be overlooked, as the proportionals or locals on which the through rates are made apply through all of these gateways to the northwest territory. In the division of the rates via these routes the lines leading from the Ohio River divide the proportions to Chicago via such junctions as Princeton, Indiana, Centralia, Illinois, and to Peoria through East St. Louis as well, so that the bridge toll at St. Louis does not enter into the equation. Another thing about this map is that the western lines enter physically all east bank crossings south of East St. Louis, at none of which points do the eastern lines participate in the bridge toll or transfer, their proportions to these points being net as the western lines absorb the bridge toll which is in their rates. In the lower left hand corner is an insert map showing the situation at St. Louis and East St. Louis. The Southern Railway and its terminal lines at East St. Louis are shown in red. The crossings of the Mississippi River by the Missouri Pacific with their Ivory transfer and by the C. & A., and Burlington at Alton and the lines of the C. & A. and C. B. & Q. are shown in yellow. [fol. 409] The connection with the Missouri Pacific is made by the Southern at the intersection of the Alton & Southern with the Southern Railway, just southeast of our yard, and is traced in yellow to the Missouri Pacific's yard where the line in yellow continues to Ivory transfer. The connection of the Missouri Pacific with the Terminal is also shown in a cross-barred line, and is just north of the Missouri Pacific yard at Valley Junction. It will be seen by this insert that the Southern makes a contact with all of the roads in East St. Louis through its terminals except with the Missouri Pacific and Cotton Belt. The C. & A. oper-

ates out of East St. Louis over its own rails to Alton and thence north, crossing the river at Louisiana, Missouri. The C. B. & Q. operates over the Big Four to East Alton, and thence to Alton, and crosses the bridge at Alton, running to Mexico, Missouri. While we have shown the C. & A. as having trackage rights over this part of the C. B. & Q. it is my understanding that the trackage rights apply to passenger trains and perishable freight only, so that the C. & A. in connection with the C. B. & Q. on perishables forms a very short line from East St. Louis to Kansas City via Alton. This map shows the separate switching districts on the east and west side of the Mississippi River, the terminal bridges being shown in the cross barred lines. On a shipment from Atlanta, Georgia, to Omaha, the rate is based on the river combination, say to Cairo or Evansville, added to which are proportional rates from those gateways to Omaha published by the western lines. That traffic could move from Evansville to East St. Louis and thence up on the east side of the river, crossing the river at some point north, into Omaha. The proportional rate published from Evansville to Omaha divides on percentages, and we get a certain percentage of that rate up to East St. Louis. This percentage is the same whether the traffic goes across [fol. 410] the river at East St. Louis, or goes up on the east side of the river.

(Thereupon said exhibit was received in evidence, marked "Defendants' Exhibit No. 64, Witness Behring.")

[fol. 411] Defendants' Exhibit No. 65 shows the relative location of Minneapolis and St. Paul with the Ohio river gateways through which the traffic is routed from the southeast to reach those points. The rates are made by adding the proportional rates of the lines north of Cairo and Evansville to the local or proportional rates to those points and the resulting through rate is applied via New Albany and Cincinnati, although Cincinnati is not shown on this map. In the division of these rates north of the river, the northern lines have provided percentages via East St. Louis, Centralia, Peoria and Chicago for dividing the proportional rates north of the Ohio River. In making up the exhibit I was working along lines of the Southern handling the freight. The L. & N. would handle the same traffic that

we handle via Centralia through Woodlawn. The percentage proportions from Evansville and Cairo to East St. Louis are shown by broken dotted lines on the map as 20 per cent, to Centralia 18 per cent, to Peoria 40 per cent and to Chicago 40 per cent. If the line from the South handling the traffic via New Albany in connection with the East St. Louis route chooses that route its division of the rate will be 20 per cent, the same as the proportion from Cairo and Evansville, and if it moves through Centralia the proportion from New Albany would be 18 per cent. If the business moves through Peoria, the Southern and Illinois Central have divisions via that route, the Southern Railway's applying via East St. Louis and the lines traced in red, the C. & E. I., C. & A. and C. P. & St. L.; the line beyond Peoria being shown as the Rock Island, although the divisions via Peoria apply in connection with other lines, such as the Minneapolis & St. Louis.

(Thereupon said exhibit was received in evidence, marked Defendants' Exhibit No. 65, Witness Behring.")

[fol. 412] In the division via Chicago, the Southern divides the proportion to Chicago via Princeton, Indiana, shown near the Indiana-Illinois state line, in connection with the C. & E. I., and receives one-half of the 40 per cent proportion to Chicago, or 20 per cent, which is exactly the same as we receive from New Albany to East St. Louis for a haul 159 miles further. The C., B. & Q. reaches Paducah, Kentucky, and can haul the traffic from that point through Centralia, Concord all the way to St. Paul and Minneapolis. In no case is it necessary under these divisions to pay the bridge toll demanded in these proceedings in order to allow the lines west of the Mississippi River to handle the traffic to Minneapolis and St. Paul. The proportional rate from the Ohio River to the latter points on first class is $1.21½; fourth class, 50½ cents. The percentage division to Princeton or East St. Louis is 20 per cent, the distance from New Albany to Princeton being 106 miles while that to East St. Louis is 265 miles. The percentage division New Albany to Centralia for 203 miles is 18 per cent.

Defendants' Exhibit No. 68 illustrates the situation with regard to the basis for rates and divisions from the South to Omaha. The routes in yellow are the C., B. & Q. from

Paducah and Metropolis through Centralia, Concord and Burlington to Omaha. They have another route breaking out just north of Centralia through East St. Louis and crossing the bridge at Alton, moving through Hannibal and St. Joseph, Missouri, to Omaha. The Illinois Central runs from Cairo through Centralia and Decatur all the way to Omaha, so that there are two roads with three routes that can operate direct from Cairo to Omaha via eastern lines without passing through St. Louis. The Missouri Pacific operates and can move up the east bank to Dupo, Illinois, crossing to Carondelet, and then by its western line through Kansas City operates to Omaha, making one direct west-
[fol. 413] ern line. As stated, the rates from the Southeast to Omaha make on Memphis combination, and are practically equalized by proportional rates from Cairo and Evansville operating through East St. Louis and Centralia. The red lines on the map indicate a route through East St. Louis and Peoria via the C. & E. I., C. & A., and C. P. & St. L. to Peoria, and the Rock Island beyond. The proportional rates from Cairo and Evansville to *to* Omaha are first class $1.18½ and fourth class, 45½ cents. The percentage division to East St. Louis is 27 per cent; to Centralia 25 per cent.

(Thereupon said exhibit was received in evidence, marked "Defendants' Exhibit No. 66, Witness Behring.")

Defendants' Exhibit No. 67 illustrates the situations at Des Moines and Kansas City. By reference to the map it will be noted that the C., B. & Q. operates directly from Paducah and Metropolis through Centralia to Des Moines both via Concord and Burlington and via East St. Louis and Alton. The Wabash, while their short line distance from East St. Louis would be via St. Louis, can operate through Decatur, Hannibal and Moberly through to Des Moines. The Southern has routes through Centralia and East St. Louis under established per cents. The red lines indicate the routes under these per cents and show movement via C. & E. I., C. & A., and C., P. & St. L. to Peoria, and Rock Island and M. & St. L. beyond. In neither of the routes does the traffic cross to St. Louis. There is shown on this map the percentages from Ohio River and Memphis to Kansas City, which shows from Cairo and Evansville 27.5 per cent to East St. Louis and 72.5 per cent north and west

of East St. Louis. It will be noted that the C., B. & Q. can reach not only Kansas City but St. Joseph as well by its [fol. 414] own rails through Alton and Hannibal; that the Wabash can reach Kansas City through Decatur and Hannibal; that the C. & A. can reach Kansas City through Louisiana, Mo., and Mexico, so that via all of these routes we have entrance into Kansas City without touching St. Louis. The first and fourth class proportional rates from Cairo, Evansville and New Albany to Kansas City are $1.15½ and 43 cents, respectively.

(Thereupon said exhibit was received in evidence, marked "Defendants' Exhibit No. 67, Witness Behring.")

Defendants' Exhibit No. 68 shows the situation to Denver and points taking the same rates. These rates all make on Memphis combination. The initial routes to Denver and Colorado common points from Cairo, Columbus, Memphis, Vicksburg, Baton Rouge and New Orleans are shown in red. At these crossings, the bridge toll is paid by the western lines, our rates applying to the east bank points and the rates of the western lines therefrom. There are no west bank interchange points at any of these gateways on which the rates break or divide. There is shown in yellow the routes that are open under the percentage issues of the western lines for dividing the proportional rates from Cairo and Evansville without the use of the Terminal Railroad Association at St. Louis, and via the routes of lines that have their own facilities for getting across the Mississippi River without the use of the Terminal. It will be noted that the C., B. & Q. can start at Paducah and reach Denver with its own rails through both St. Joseph and their cross- [fol. 415] ing just south of Omaha, as illustrated in Hoffelder's Exhibit No. 54. The percentage proportion as shown by the broken dotted line from Evansville and Cairo to East St. Louis is 10 per cent. The first and fourth class rates from Evansville and Cairo to Denver and Colorado common points are $2.67½ and $1.23½, respectively. The points chosen in these graphics are the key points to the entire west and northwest.

(Thereupon said exhibit was received in evidence, marked "Defendants' Exhibit No. 68, Witness Behring.")

To the southwest, we have no divisions via St. Louis from the southeast, all of our divisions applying via the routes through Memphis and south, at every one of which crossings the western lines interchange with us on the east bank anl pay the bridge —. The bridge tolls or transfer are [fol. 416] not deducted before prorating, the percentage proportions of the eastern lines being net at the east bank Mississippi points. This illustrates, with my Exhibit No. 64, that at all crossings, including East St. Louis, the western lines assume the bridge toll from their interchange point with our lines on the east side. The rates from the south to the northwest are made up of rates to the Ohio River crossings plus the proportional beyond. The rates from the Ohio River crossing to the west are divided on percentages, all of which divide on East St. Louis. I have all the percentages as far back as 1898.

Examiner Disque: In these percentages, is any specific or arbitrarty allowance made for the bridge at East St. Louis, Mr. Behring:

A. No, sir, no arbitrary allowance for the bridge applied in these porportional rates on the Ohio river.

These percentages approximate a mileage basis. The southern lines take care of the bridge toll at the Ohio river out of their proportion of the rate and make delivery to the northern lines, and they take care of the bridge toll at this end. I do not think the western lines used any mileage at all in computing their percents; I think the percents were arbitrary. They are published by the western lines and allow the eastern lines a certain percentage of the through rate up to East St. Louis. I know of no instances where the rates from the south to the west break on the East St. Louis—St. Louis combination, that is w-ere the combination on East St. Louis is the same as the combination on St. Louis. In some instances we have joint through rates from point of origin in the south to final destinations in the west. Where we have proportions that might approximate the East St. Louis combination, the proportions are applied from East St. Louis to be added [fol. 417] to our locals up to that point.

Southeastern territory is comprised of that territory east of the Mobile & Ohio Railroad from Corinth, Mississippi, down to Mobile; following the Memphis division of the

Southern Railway to Chattanooga, then the Georgia-South Carolina-North Carolina state line, then from a line at Walhalla running down to Charleston. East Tennessee is on the Carolina basis, while Nashville is in the southeastern adjustment. The bridge toll on first and fourth class traffic is 5 and 3.1 cents, respectively. To C. F. A. territory, Kentucky is made on combination on the Ohio river where they were in competition with Cincinnati, but our rates from Lexington, for example, to that competitive point will be the same to New Albany and Jeffersonville as to Cincinnati, so we carry it to the north bank. Rates to the southwest are on a differential basis; territorial rates to transcontinental territory, and full combination to other destinations on Louisville or any other gateway. We may have isolated proportional rates that apply to East St. Louis. From points on the St. Louis-Louisville division of the Southern Railway it is possible there may be some rates that make on the St. Louis combination.

I have made an investigation to show that it would be unreasonable to require the Southern to absorb the bridge toll on coal moving through East St. Louis and St. Louis to western points. Defendants' Exhibit No. 69, shows the rates and divisions on coal from our mines to Kansas City, Topeka, Fort Scott, Wichita, Salina, Kansas, and Sedalia and Springfield, Missouri, and the proportions received by us from the various lines. We have also shown in the column the short line mileage from our Belleville group to the points named. It will be seen that our maximum proportion is 51.7 cents, our minimum proportion 48.6 [fol. 418] cents. The bridge toll on through coal to western trunk line territory is 30.6 cents per ton. Deducting this from the 51.7 cents, our maximum would leave us 21.1 cents per ton, and deducting it from our minimum proportion we would receive exactly 18 cents per ton. This 18 cents per ton would mean $8.10 per car on coal loading about an average of 45 tons which would not pay the per diem and switching necessary to handle the cars in our yards at the mines, let alone the road haul. This Exhibit is filed for the purpose of showing that under present conditions it would be unreasonable to reduce our divisions. Moreover, we originally built some rates on 25 cents to East St. Louis plus the figures that the western lines gave us

and that 25 cents per ton is now in these divisions 51.7 and 48.6 cents, whereas, to points not covered by through rates it is 76 cents per ton. Our local rate to East St. Louis is 91 cents and to St. Louis $1.16. The rates shown in Exhibit No. 69 are all published as joint through rates. If the prayer of the complaint should be granted and no readjustment made at the same time, we would have a greater division on this coal, and would be irreparably damaged by being compelled to absorb the bridge tolls pending negotiations for readjustments in divisions because the coal business is one of our principal industries in this section.

Exam. Disque: Now, wait a minute, will you say whether or not this coal proportion that would be left to the Southern Railway if the western lines get what they want would be compensatory or not?

A. It will not be.

(Thereupon said exhibit was received in evidence, marked "Defendants' Exhibit No. 69, Witness Behring.")

[fol. 419] I am familiar with the Belleville, Illinois, coal group and with the service we perform in connection with handling traffic therefrom. The first move we have on through business where the western line furnishes us an empty is to get the car at the interchange point and switch it into our yard. It is inspected, and then broken into trains of empties for the mines. In the night or early the following morning, a crew takes the car out and places it at the mine, that crew goes out and works all the mines and switches in our Belleville group, all the way out to New Baden. That is one day for just taking the car out and leaving it at the mine. The next day the crew goes out to bring in the loads, if it is loaded that day, sometimes they are, the crew brings it in, switching the different mines and picking up the loads, until they get to our East St. Louis yard, Coopman yard. Then the train is first run over the scale, carried from the switch where it arrives over to the scale, and run over the scale. After the scaling, our train is broken up and classified for the different connections or industries, and this car for a connecting line is then placed in, and cut out and taken out the next morning by a crew to the interchange of the western line, or de-

lievered to the Terminal, or the Alton & Southern for the Missouri Pacific and Cotton Belt. It would take about four days under ordinary conditions between the time that the car leaves East St. Louis until it returns to that point. We have to pay per diem on foreign cars and it costs a greater amount than per diem to maintain our own cars. Coal cars are very susceptible to being damaged. After the cars get back to St. Louis the complainant's states that we would pay per diem of one and one-half dollars for one and one-half days, so that would make five and one-half days or five and one-half dollars to be paid from the $8.10, leaving practically nothing for road haul service. Our en- [fol. 420] gine crews in coal service get the highest pay of any of the engine crews, because of the risk of running into mine spurs. We have no yards or terminals in St. Louis proper, and not even our passenger trains run into St. Louis. The Terminal hooks a switch engine on them and brings them over.

Cross-examination:

On traffic from Cleveland, Ohio, to Chattanooga, carload rates are made on the north bank by combination of locals. The rate from Cleveland to Covington is the same as to Cincinnati, and the rate from Cincinnati to Chattanooga is the same as from Covington to Chattanooga. The rate can be made on either gateway. We pay the bridge toll in both directions. Our rates usually make on the north bank, because we carry the south bank to the north bank to equalize competition between other crossings, and at Cincinnati, the eastern lines apply the north bank to the south bank. At Louisville, all the interchange is practically done on the south side of the river, even though the rates break and divide on the north bank, the lines from the north performing the service and we paying the bridge toll. We have no rates making on the East St. Louis combination. A lot of traffic also now moves through gateways other than East St. Louis. The car ferry at Cairo has been discarded since the Thebes bridge has been used. Cairo may be disregarded as a Mississippi River crossing. I don't know whether Belmont is open yet or not. I will accept the statement that five years ago the Missouri Pacific tore up its tracks in Columbus, and now does not cross the river there. I do not know that there is a terminal or switching line

at Memphis that has tracks on both sides of the river. I imagine the bridge would have its own switches on the west side and the east side as well. I do not know who owns the [fol. 421] bridge at Memphis. There is no terminal or switching agency at Memphis owned by the lines serving Memphis, like the Terminal Railroad Association tracks at St. Louis. I do not think there is anything interchanged at Helena, Arkansas, going very far to the west. I think the Illinois Central serves Helena. I do not know whether they pay and bear the toll across the Mississippi there. I think they get across by a car ferry. I don't know whether they own it or not. I have not testified as to the C. F. A. situation but I understand that there is no bridge toll added to the through rate on traffic originating more than one hundred miles east of St. Louis and the carriers parties to the joint rate absorb the transfer charges. The Southern Railway does not pay any bridge toll going or coming on traffic crossing the river at Memphis. The bridge toll would be borne by the shipper unless it is provided for in the through rate. If the Commission in Docket 12009 allowed a bridge toll at Vicksburg, Natchez, Baton Rouge and New Orleans similar to the charge at Memphis on traffic crossing the river at those points it would be in the western rate. It would not be in our rate; we would not get to the west side.

Mr. Larimore:

Q. The point I am asking you is that those bridge tolls are paid by the shipper on traffic crossing the river at those points.

A. That is none of our business.

Mr. Walker: I do not think this witness is qualified to answer the question.

Exam. Disque: Well, the rest of us are, because we all know that the Commission so decided.

The Witness: I know that they gave some arbitrary there, but our interchange is east of the river, and we do [fol. 422] not get to the west side. From the southeast the western lines took the bridge toll at southern crossings out of their proportion and our proportion was net to the east banks, so that the proportional of the western lines, was not made on any mileage scale or additional bridge toll.

Our rate on coal from Belleville to East S. Louis, is 91 cents for 14 or 15 miles. The western lines want to allow us 51.7 cents, the Rock Island 48.6 cents. They now want us to take 30 cents off that 51.

Mr. Burg: You do not mean to say that the western lines have demanded that?

The Witness: That is what you are demanding here.

Examiner Disque: Sure you have.

Mr. Larimore: You are, of course, aware of the fact that if the relief be granted the west side lines, if the relief requested is granted the west side lines, that these divisions that you have set out in Exhibit 69 are subject to the supervision and direction of the Interstate Commerce Commission with power in that body to grant reparation extending back two years, aren't you?

Examiner Disque: I thought they only went back to the date of the filing of the complaint.

Mr. Larimore: Yes, a division case, that is right.

The Witness: The line of the Southern Railway ends at East St. Louis. I do not know the reason of that company in becoming a proprietor of the Terminal Railroad Association.

[fol. 423] L. L. Drescher, called as a witness in behalf of defendants, and having been first duly sworn, testified as follows:

Direct examination:

I am assistant to the vice-president in charge of traffic of the Louisville & Nashville Railroad Company, and have spent more than twenty years in the service of that company, all of which has been in the traffic department. I heard the testimony of Mr. Furry of the Illinois Central and Mr. Behring of the Southern as to the situation of rates between Mississippi Valley and the Southeast and this western territory, and they covered the situation fully. Upon looking into the matter of divisions south and west of St. Louis in connection with the subject of bridge tolls, I examined a good many of the percentage sheets issued by the western lines, not so much with the purpose of determining the reasonablenes or fairness of those percent-

ages, but to ascertain whether or not in any of them anything was said with respect to the bearing of the bridge tolls or the bridge transfers. I found in a percentage sheet or division sheet issued by the Missouri, Kansas & Texas Railway, No. 3761-A of October 25, 1910, containing percentages applicable between Atchison, Coffeyville, and Leavenworth, Kans., Council Bluffs and Sioux City, Iowa, Kansas City, St. Joseph, Mo., Lincoln, Nebraska City, Omaha, and South Omaha, Nebraska, and points taking the same rates, and Ohio river crossings and also interior Mississippi Valley points the following note, it being Item 2 on page 2 of that publication: "The proportions south of East St. Louis, Illinois, except as provided in Item No. 5, include the Ohio river bridge toll, and proportions west of East St. Louis, Illinois, include the Mississippi River bridge toll." Item 5 to which I refer reads: "Ohio river transfer 2 cents per hundred pounds, to be deducted before prorat-
[fol. 424] ing, adding to the proportion south of East St. Louis." Item 5 has application only in connection with the percentages shown in this publication to Paducah, Kentucky, on traffic destined to points beyond Paducah. I found a similar note in a later issue of the M. K. & T. published in 1915. In 1922 the Louisville & Nashville Railroad published rates and divisions on lumber from stations on its line south of Decatur, Alabama, that being the yellow pine belt of the L. & N., to certain stations on the Missouri, Kansas & Texas Railway, and published specific divisions breaking on East St. Louis. Those rates and divisions were published at the specific request or solicitation of the M. K. & T. Railway. In other words, they furnished us divisions which they would accept at that time west of East St. Louis. Under that publication the interchange of traffic between the L. & N. and the M. K. & T. has been made at East St. Louis.

W. C. Maxwell, recalled as a witness on behalf of defendants, having previously been duly sworn, testified as follows:

Direct examination:

At the request of Mr. Burg, I submit a copy of Illinois Freight Association Tariff Bureau Division Sheet No. 3-C.

It bears M. K. & T. Division Sheet No. 3298-D, and this copy was obtained from the Missouri Pacific files. Also an extract from a circular published by C. W. Galligan, Chairman of the Illinois Freight Committee, dated August 1, 1923, which makes clear the provision for the 8 cent arbitrary on l. c. l. and 3 cents per one hundred on carload freight. This division sheet and extract show the basis in effect between Illinois roads and all western lines via St. Louis, as previously outlined; that is, with the rate of $1.21½ from Chicago to Kansas City, 8 cents is deducted for river transfer at St. Louis. This money is set aside [fol. 425] for western roads proportion, and the balance is prorated, the lines north of East St. Louis receiving 47½ per cent, and the lines west receiving 52½ per cent. This method of dividing earnings prevails in Trans-Missouri and Missouri River territory, and some points in Arkansas and Missouri, and this is the basis used today in place of the bridge toll of 5 cents per one hundred on L. C. L. and 3 cents on carload. To illustrate, I present a statement of merchandise tonnage from Chicago, Milwaukee and vicinity, routed by the Missouri Pacific, East St. Louis, for the month of July, 1925, which shows a total movement of 4,690,517 pounds, and that only 711,672 pounds or 15 per cent moved via wagon transfer; only 1,199,178 pounds or 26 per cent moved in cars between Ivory station and the Missouri Pacific at Gratiot Street. Another significant point is that 2,779,667 pounds, or 59 per cent of the total tonnage, did not cross the river at St. Louis at all, but was delivered to the Missouri Pacific at the agreed interchange point, East St. Louis. It went down east of the river to Texas and the west generally.

(The division sheet and extract from the Galligan circular were thereupon received in evidence as Defendants' Exhibit No. 70, and the statement of the tonnage as Defendants' Exhibit No. 71.)

The merchandise that went across the river at East St. Louis was taken across by the Terminal Railroad. It goes directly in cars to the Gratiot Street station of the Missouri Pacific. We have a line of about fifteen or twenty cars a day out of Chicago. They do not go to our depot, but to the Terminal's depot. We can get it for five cents and on 63 per cent of the business that crosses the river we pay

them 8 cents when we could have gotten the service at five. [fol. 426] We ought to get 8 when we get a wagon transfer and 5 when we get a bridge transfer. We are overpaying them now; all the roads are doing the same thing. We are not going to pay the west side lines 8 cents on 63 per cent of the business that comes over in cars by the Terminal Railroad. We were foolish enough in making these division sheets to allow them 8 cents on that. They are making 3 cents profit. It is a general arrangement and covers every railroad. I could not state the comparative volume of through business handled by the Wabash over the bridge at Hannibal versus the volume handled through St. Louis for all our own business. Part of our own business goes over at Hannibal naturally; we have a very big interchange with the Missouri Pacific, M. K. & T. and with the Frisco and all of these railroads here. I should say it is about fifty-fifty. I could easily get the figures, and will be glad to supply them.

R. P. DECAMP, called as a witness in behalf of defendants and having been first duly sworn, testified as follows:

Direct examination:

I am assistant coal traffic manager of the Illinois Central Railroad, and have held that position since January 10, 1922. I have been in the traffic department of that company for twenty-three years.

Mr. Hughes: All traffic local to St. Louis proper is excluded, this whole case deals with through business.

The Witness: Joint through rates are in effect from the Illinois coal producing group to points west of St. Louis, and apply via East St. Louis in connection with the destination carriers serving the territory west of St. Louis. There are no rates from mines in Illinois on the Illinois Central to stations west of St. Louis that are made on combination of locals that I recall. The joint through rates divide via [fol. 427] East St. Louis on the following basis: The basic divisional group, which corresponds to the basic rate group, is what is known as the Belleville or inner group, and the standrad proportion allowed the coal originating lines in this group to East St. Louis in connection with the division

of joint through rates from that originating district to territory west of the Mississippi River via East St. Louis is 51.7 cents per ton to East St. Louis. The rates from the other coal originating groups, such as the Du Quoin, Murphysboro and Southern Illinois groups, which rates are made a differential over the basic group, divide by allowing the coal originating line to East St. Louis 51.7 cents per net ton plus the differential in rate from those other groups over the Belleville group. These divisions are all applied via East St. Louis. In other words, the lines west of East St. Louis receive the Belleville district revenue on all coal they receive at East St. Louis, originating at Illinois mines, rates from which are made differentially with regard to the rates from the Belleville group. Originally the rates on coal from the Belleville group, as well as the other producing districts in southern Illinois, to this western territory via East St. Louis were made on the combinations of locals, using as factors proportional rates from the different originating groups to East St. Louis plus local rates beyond. With the different increases in cents per ton that have been applied to coal rates as the years went on, in order to get away from the double advances, that is, of applying the specific increases in cents per ton to the factor up to East St. Louis, and the specific increase to the factor beyond, the carriers published joint through rates, which rates, however, were predicated on the proportional rates up to East St. Louis, plus local rates beyond, and the joint through rate thus so published thereby [fol. 428] received only one specific increase in cents per ton or percentage increase.

In the division of rates from the Belleville group, the originating carriers received their proportional of 25 cents. This proportional was a very low rate and was the result of a rate war between the carriers serving the Belleville district mines, and this has already been fully explained and gone into in great detail, more so that I can, in the Illinois Coal Cases of 1920, 62 I. C. C. 753. When the joint through rates were established the Belleville district lines received in division 25 cents. When the 15 cents' increase was applied to the joint through rates, by agreement with the western lines, the proportion allowed the originating lines in the Belleville group to East St. Louis was increased

from 25 to 30 cents. Then came along the period of federal control, when no consideration was given to the divisions. However, with the passing of federal control, effective March 1, 1920, by agreement between the east side and the west side lines, the standard proportional allowed the coal originating lines in the inner or Belleville group to East St. Louis was increased from 30 to 42.5 cents. This proportion at that time was regularly established pursuant to an agreement with the western lines and represented a technical proposition, in that it of itself was in some cases higher and in some cases lower than a regular prorate would allow. On August 26, 1920, pursuant to the increases made on that day in coal rates in connection with the Commis- [fol. 429] sion's decision in Ex Parte 74, this 42.5 per cent proportion was increased 35 per cent, which made it 57.4 cents. On July 1, 1922, pursuant to the 10 per cent reduction in coal rates, the division was likewise reduced ten per cent, so that the standard proportion today is 51.7 cents from the Belleville district mines to East St. Louis. Divisions from the other producing groups, such as Du Quoin, Muryhysboro, and southern Illinois, reflect the differential from those groups over the inner or the basic group. In other words the division structure had its inception with a low proportional rate of 25 cents to East St. Louis, advanced in the manner in which I have stated, and reflected from the other groups by the observance in divisions the same as in rates of the differentials southern Illinois and related groups over the basic group.

There is a substantial volume of coal moving from these Illinois groups to points west of St. Louis. Take the Belleville district, for example, which is within a stone's throw of this great metropolis, in 1924 that district produced approximately nine million tons of coal; one half of it moved to St. Louis and East St. Louis districts, that being the greatest consuming center contiguous to its doors; the rest of it, approximately one half of it, was destined to points west of East St. Louis, and west of St. Louis, which moved [fol. 430] via East St. Louis. The situation that I have presented on behalf of the Illinois Central is likewise prevalent on other roads serving Group 2 and the Illinois groups south and southeast thereof. I have referred to the stand-

ard proportion of 51.7 cents all the way through. There might be one or two exceptions where it is a little less than that, but I am speaking now of standard proportions. The differentially related rates from southern Illinois to stations west of St. Louis are made 22½ cents over Belleville; the rates from the Du Quoin group 7½ cents; from Murphysboro, 19½ cents, and these are the rate differentials that are added to the 51.7 to arrive at the divisions for the lines up to East St. Louis from the other producing groups. The differentials were fixed by this Commission in the Illinois Coal Cases, 1920.

Cross-examination:

None of this coal from Belleville goes to Chicago. Our haul from the Belleville group represents a minimum mileage of 15 miles, and a maximum of 72 miles, and an average of 37 miles, for which service from the different mines we accept 51.7 cents. DuQuoin is the intermediate group, situated south of Belleville. The average distance from the DuQuoin group is about 85 miles to East St. Louis, and from southern Illinois, 100 miles.

Mr. Roberts: Mr. Examiner, may I take up with you the question of the admissibility of that Smith's testimony again?

We renew our offer of that exhibit.

[fol. 431] Examiner Disque: On behalf of the Commission, I request that this pamphlet, bearing the following matter on its title page: "Terminal Railroad Association of St. Louis. Evidence submitted in Coal Rate Hearing before the Interstate Commerce Commission, at St. Louis, December 15, 16, 17 and 18, 1913" in its entirety be made a part of the record in this case by stipulation of the parties, except insofar as it contains matter pertaining to rates and divisions. As to the matter of rates and divisions, I do not ask that the parties stipulate, but as a representative of the Commission I would like to make the entire pamphlet, including the matter relating to rates and divisions, a part of the record. Mr. Orcutt, have you any objection to my doing that?

Mr. Orcutt: No, defendants have not. You may have the evidence, but it is not to be considered as offered by the

defendants, or as being binding upon them, because we do not know what is in there.

Mr. Roberts: I object, your Honor, to the matter contained in the pamphlet relating to rates and divisions, on the same grounds that I objected to other evidence in this case which was offered by defendants relating to rates and divisions otherwise your proposition is satisfactory to complainants.

Examiner Disque: I am receiving this only to the extent that it may be considered relevant by the Commission. Your objection is overruled.

Mr. Roberts: Note our exception to the ruling of the Examiner.

[fol. 432] Examiner Disque: Exhibit No. 58 was received for identification. Since the entire matter included in Exhibit 58 is also included in this pamphlet, Exhibit No. 58 will be received as part of the record. We will receive Exhibit No. 58 as a true and correct copy, for convenience, of the particular matter which complainants desire to use.

Mr. Dick: I understand that all of the defendants join in that.

Examiner Disque: I understand it is for all complainants also.

Mr. Roberts: Oh, yes.

Mr. Orcutt: Defendants rest.

Columbus Haile, called as a witness on behalf of complainants and having been first duly sworn, testified as follows:

Direct examination:

I am vice-president in charge of traffic of the M. K. & T. Railroad. I have been connected with the traffic department for the last thirty-five years, and in charge of it since 1898. All of my traffic experience has been in the Southwest. I have been connected with all of the efforts made by the west side lines in the past twenty-five years to change the practice with reference to the interchange of through traffic. I have knowledge of the results of conferences which brought about the extension of the east side lines'

rates to St. Louis in 1907 or 1908, but I am not familiar with the conferences between the Municipal Commission and the east side lines. I do not agree with the statement by Mr. Sudborough that at the time the east side lines extended their rates to St. Louis, it was understood between the line that there would be no change in the making of through rates or in the division of rates, because it is not a fact, though it has been claimed, and I assume in good faith, by some of the eastern lines, for a good many years past, that [fol. 433] such an understanding did exist. There was not, to my positive knowledge, any such agreement on the part of the M. K. & T. Railroad, and I have never heard of any agreement to that effect on the part of any other western lines.

Q. Did you hear Mr. Maxwell's statement that the—in the first place, when you extended your St. Louis rates to East St. Louis, did you increase the rates in any way so as to take care of the bridge tolls?

A. That was done before my connection with the railroad, Mr. Burg.

But manifestly there could not have been an increase made, from competitive conditions, in the rates to East St. Louis, as compared with those to St. Louis, from the western territory. The rate which we extended to East St. Louis was exactly the same as the St. Louis rates. I heard Mr. Maxwell's testimony, and gained the impression from what he said that the fact that we had to pay a toll to reach East St. Louis was given consideration in fixing our rates to and from St. Louis. I do not think there is a single instance in which that factor has entered into the making of the rate from the point where the rates to and from St. Louis and East St. Louis are alike. I do not recall any case before the Interstate Commerce Commission where we have contended that the rates should be on a certain level because of the fact that it was the practice for the west side lines to pay the bridge tolls on this through traffic. I have never made any contention of that kind myself. Rates in Missouri, which are made by the Missouri Commission, are established to St. Louis, and following the reasons which led to the application of St. Louis rates from East St. Louis in the first instance, they have been applied from East St. Louis as a matter of competition, [fol. 434] they have been so applied by all lines.

Examiner Disque: Mr. Haile, are you asking that the eastern lines perform the bridge service to St. Louis on traffic going to Kansas City from Cleveland, for instance?

A. Yes, sir.

Q. Why do you do that, when the Commission has fixed a proportional rate from East St. Louis which includes the bridge charge; they have fixed no proportional rate from St. Louis; the Commission in fixing the proportional rate from East St. Louis is presumed to have included everything from East St. Louis to Kansas City, and you are asking to be relieved of the cost of getting the freight acrosss the bridge.

A. I am not familiar with the precise terms of these various Commission orders, but in the Burnham-Hanna-Munger Case, assuming that the Examiner's question was based on correct premises, I would say that we would still ask for the assumption on the part of the delivering lines of the cost of delivery, in view of the fact that we are seeking to establish a uniform and equitable practice as to deliveries at this point. Personally, I have never felt much concerned as to just how those charges were to be divided or borne, but the western roads have always maintained since the rates to St. Louis and East St. Louis were made on a common basis from the east that there should be a difference in the method of disposing of those charges, compared with what had previously been in effect. I heard the testimony this morning regarding coal rates, and saw what a small amount was left for the lines east of East St. Louis after allowing this bridge charge of 20 cents to the western lines. I think the same situation, in a less aggravated degree, might possibly be true of other joint through rates that would be divided on the basis of present percents east and west of East St. Louis. If there are [fol. 435] such instances, either in the earnings of the west side lines or those east, in our own case we expect to go to our connection for a revision to a basis which would not require us to perform service at a loss, and if there are instances on the east side where that result would follow, would expect to meet them in a spirit of harmony and dispose of it.

Q. But you are asking relief here which ignores all of these circumstances, you are asking that the Commission require that to be done, and as a result of that these divi-

sions which you have arranged and agreed upon will be changed, yet you admit in certain cases those would not be right.

A. I have not admitted that, Mr. Examiner; I think you have misunderstood me. I said if it should develop that there were such cases—I would not say right now that 20 cents was unfair allowance from Belleville to East Louis; I don't know what it costs them, except from the testimony given here this morning. I would hardly regard that offhand as sufficient to offer a change in this division.

There are divisions in effect which provide for the disposition of the bridge charges between all carriers. I think that is the case in the trans-continental divisions, a certain amount being deducted and the balance prorated on agreed percents, or percents which are at least effective. That amount is deducted and added to the proportion that we get because we have to pay it, that is the situation today.

Examiner Disque: You are asking the Commission to compel the eastern lines to deliver that traffic to you over here, and pay the bridge charge, although you have the money with which to pay the bridge charge.

A. I would say in answer to that, that we ask a common [fol. 436] practice to be established here, which will equitably dispose of the various costs of interchange.

Mr. Burg: Mr. Haile, you did not mean to say that on that transcontinental traffic the money was deducted as between the eastern lines and the western lines, and then prorated?

A. It is, as I understand it, Mr. Burg; I may be mistaken about that.

Examiner Disque: It is. Well, suppose, to avoid the cases such as you speak of, such as transcontinental, that you mentioned, suppose I would agree with you as to the rates that are based on the St. Louis and East St. Louis, that is rates where the St. Louis combination is the same as the East St. Louis combination, and say that the carriers shall split this transfer charge fifty fifty on some basis such as eastbound versus westbound, but that as to cases where joint rates are in effect or cases where proportional rates are established the Commission will not at this time actually prescribe that the eastern lines shall pay the charges across the river, but shall approve of the principle that in making

divisions via St. Louis the charge should be divided between the eastern and western lines. That is about what you seek to have put into operation, only——

A. I think that would be a very desirable arrangement as compared with what we now have. We are getting through rates established for us without any agreement or action on our part. We do not find that in doing that that any arrangement is in view on the part of the Commission for the disposition of these arbitrary charges.

Examiner Disque: Well, the fact is in some cases, if you get what you ask, the divisions ought to be readjusted, in some cases, ought they not?

[fol. 437] A. Possibly that is true, and where that is the case I want to say as far as the line I represent is concerned, we shall be very glad to be put in touch with our connections on that point.

Examiner Disque: In view of that, should not the Commission withhold relief such as you ask until it knows in all of these cases where joint rates are in effect that the resulting distribution of the revenue will be on an equitable basis?

A. Your question assumes, as I take it, that the divisions today are fair and proper, and that the western divisions include the cost of getting across the river. We do not agree with that at all.

Examiner Disque: You do on transcontinental business?

A. Transcontinental, as far as I am concerned, is relatively unimportant.

Examiner Disque: Defendants used that as an example?

A. Yes, but I think you will find that most of the divisions, particularly to the Southwest, are those that have been arbitrarily forced on us; we have just taken the best that we could get.

Through rates to Texas from C. F. A. territory were established in the first instance by the lines leading from the Mississippi River to Texas; then the rates from Chicago, Cincinnati and Louisville were made differentially higher. This was prior to my connection with that traffic. After the rates were established from St. Louis and the Mississippi River and the Ohio River crossings to Texas, then they were later established from C. F. A. territory, based on arbitraries over the rates from various Mississippi River and Ohio River crossings over the Mississippi

River. I can not answer definitely as to who fixed those [fol. 438] arbitraries. I can only give my general knowledge of this history of those rates. I think differentials were agreed upon by all of the lines in interest. I think the C. F. A. lines had something to do with the fixing of those arbitraries. I took no part in the establishment of that rate basis from C. F. A. territory. I don't know of my own knowledge whether the C. F. A. Lines had anything to do with the fixing of those arbitraries.

It is my understanding that when the coal rates were published from Illinois to points on our line, it was understood that the east side lines were to get 51.7 up to East St. Louis, and the lines beyond to get the remainder.

Between, say, 1889 to 1900, we agreed with our eastern connections on divisions on various commodities at various times. Those divisions were all fixed on East St. Louis, that is, the application of those divisions contemplated the absorption of transfers across the Mississippi River by the western lines. That was prior to the time that the rates from that territory to St. Louis were the same as to East St. Louis. The application of the percentages on rates, say from Chicago to Texas where there are through rates, showed the charge applying to the east bank of the river, and the balance west.

[fol. 439] F. A. Leland, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am Chairman of the Southwestern Freight Bureau, at St. Louis, Missouri, and have held that position since January 1st, 1908. Prior thereto I had been connected with the M. K. & T.; previous to that employment with the Queen & Crescent route; previous to that with the Cotton Belt. I have been in railway service since 1887. My experience has been confined almost exclusively to territory west and southwest of St. Louis, with the exception of the time I was in Cincinnati three years with the Queen & Crescent, and have been substantially or entirely in the rate and traffic departments of railroad work.

The principal duty I have as Chairman of the Southwestern Freight Bureau, is the handling of proposed rate changes, handling of orders of the Interstate Commerce Commission, and the publication of the common tariffs for account of the Southwestern lines. My experience has brought me into contact with the history of the rate adjustment from all territories east of the Mississippi River to territories southwest of St. Louis.

There have been through rates from Central Freight Association territory, or parts of the Central Freight Association territory, to Texas points since 1887. The rates beginning in 1890 were joint through rates, agreed upon between the Central Freight Association lines and the Southwestern lines, and were divided on percentages. The percentages applied to Cincinnati, Louisville, Evansville, Cairo, East St. Louis, East Hannibal, East Louisiana, East Fort Madison. As an illustration of what the divisions were, on Texas traffic from Detroit and Toledo the lines to East St. Louis received 23 per cent, from the western part of Pittsburgh territory 25 per cent; east part 26 per cent, with divisions of 22 per cent to Louisville and 22½ and 23½ from the two sections of Pittsburgh territory. This system of through rates and divisions was cancelled by notice of the C. F. A. lines October 16th, 1893. Following that notice there was a temporary period when there were no through rates, and the traffic moved on combina-
[fol. 440] tion of rates to and from the gateways through which it passed.

In January, 1894, Mr. George R. Blanchard, in behalf of the Central Freight Association lines, sought a conference with the Southwestern lines, as to the possible restoration of through rates and divisions. The series of conferences which were held resulted in a disagreement, and the situation was left as it had been under the notice of abrogation of through rates and division arrangements.

Effective on July 1st, 1894, a system of through rates was prepared by the Southwestern lines, and published in tariffs by their agent, and made effective without the consent or concurrence of the Central Freight Association lines, applicable only to Texas points. The Commission's rules were uncertain, and these tariffs were printed and operated by the Southwestern lines without any formal

concurrence or consent on the part of the Central Freight Association lines. After the custom had gotten established and the shippers in that territory became familiar with it, it was common practice of the Central Freight Association lines to quote rates from Southwestern lines' tariffs.

The system of rates then devised by the Southwestern lines was based first on deciding upon certain rate groups; there was a Pittsburgh group; Detroit-Cleveland, Dayton-South Bend, and Chicago-Cincinnati group. These groups followed somewhat along the lines of the previous grouping of the C. F. A. points, when the system of joint through rates and percentage divisions was in effect. The purpose of the system of through rates inaugurated by the Southwestern lines was two-foid: First, on the basis of full combination of the Ohio or Mississippi crossings, traffic could not move from Central Freight Association territory to [fol. 441] Texas in competition with the rates available to shippers of the same commodities east of Buffalo and Pittsburgh, via New York and the water line through the Gulf of Mexico. Therefore, all lines operating north and south, or southbound from the Missisippi river into Texas in order to share in that traffic, felt it necessary that total rates be established which would to some extent, at least, compare favorably with the rates available from the territory known as Seaboard territory. The second important consideration was that on the basis of combinations, the route that had the lowest combination would receive all of the traffic, bearing in mind that the state of Texas could then and can now be reached via the gateway through the Red River, Texarkana, and the gateways through the lower Mississippi river crossings, beginning at Memphis, and running down to New Orleans, and the traffic leaving the rails of the Central Freight Association lines either at Chicago, north Mississippi river crossings, East St. Louis, Cairo, or the Ohio River, so that some system of through rates was necessary so the different lines could compete in competition with each other on what traffic was moving and could move on the system they devised. At that time there were no rates published from Central Freight Association territory to St. Louis. Rates were published to East St. Louis. The arbitrary method in which the rates were made by the Southwestern lines required that in division

the Central Freight Association lines be allowed the maximum that they could legally charge, namely, their local rate, or their proportional rate, if there was one in effect, to these different gateways, Cincinnati, Louisville, Cairo, East St. Louis, East Fort Madison, Chicago, etc., so that under this system of rates the C. F. A. lines received their local or proportional rates, if any proportional rates were published and applicable. That system of rates was continued without change in its general characteristics, without concurrence of the initial lines, until the Interstate Commerce Commission under the 1906 amendment to the Act prescribed a definite method of publishing joint [fol. 442] through rates. They required by their new tariff circular, which took effect in 1907, that jont through rates should be evidenced by an affirmative concurrence on the part of the participants in that rate, by filing with the Commission certain forms setting forth the fact that they did concur. These rates it was impossible to continue, after the effective date of the plan of concurring in tariffs. There were conferences between the Southwestern lines and the Central Freight Association lines as to what should be done. They resulted in the Central Freight Association lines accepting the system of rates then in effect, authorizing that they be published, and the concurrence feature was taken care of by adding in the tariff their own agent and the powers of attorney and concurrences which had been given to their agent. The agent first was Mr. Tucker, subsequently Mr. Morris, and Mr. Kelly, and now Mr. Jones. The conferences took place around the first part of 1907. The tariffs have been continued in that form ever since.

When we had decided upon this system of rates, it was reduced to a plan of publication by which a certain arbitrary or differential governed by the Western Classification was shown in the tariff, to be added to the rates from St. Louis. Thus the fifth class differential was added to the fifth class rate from St. Louis to get the fifth class total [fol. 443] rate. On a commodity that ordinarily covered articles ordinarily taking the fifth class rate, the fifth class differential was added to the commodity rate from St. Louis.

Exam. Disque:

"Q. Do you say St. Louis advisedly, or do you mean St. Louis or East St. Louis?"

"A. The witness: I did not have that in mind at all when I used the expression; the tariff says St. Louis; the tariff now says St. Louis, and always has said St. Louis, but the St. Louis rate applies from St. Louis territory, which includes Hannibal, East St. Louis, Belleville, and quite a little territory surrounding St. Louis."

The situation to other parts of the Southwest, such as Oklahoma, Louisiana, and Arkansas, was keyed upon the plan that had been previously devised and has just been explained with respect to rates from C. F. A. territory to Texas, and substantially the same method of grouping the origin points in C. F. A. territory and the same differentials or arbitraries were added to the rates from St. Louis. The rates to Arkansas and Oklahoma and to Louisinana in some cases were less from St. Louis than to Texas, and that produced a less total rate from the C. F. A. territory than to Texas. When I say rates from St. Louis, I mean St. Louis proper, St. Louis territory, and also East St. Louis; St. Louis is the basis for all our rates into the Southwest. The divisions were, as previously stated, figures that were in effect from time to time as local or proportional rates to East St. Louis or to the other Mississippi river or Ohio river gateways. The divisions, therefore, had nothing whatever to do with the through rates. By that I mean that the amount allowed the C. F. A. lines was not based upon an agreement taking into consideration relative service, traffic or transportation conditions of the two territories, mileage revenue prorate, or otherwise. The divisions to the C. F. A. lines was the figure that under this system of through rates the Southwestern lines were compelled to pay to the C. F. A. lines to get them to haul traffic to their rails—to the Southwestern lines' rails, or to the connections of the Southwestern lines' rails at the Ohio River. From the Ohio river specific divisions on a percentage basis were published and are now in effect through the crossings, Mississippi river crossings, Memphis and [fol. 444] south; so that the local rate, or the proportional rate on a shipment from Pittsburgh to Dallas, Texas, was

allowed to the Ohio river or to East St. Louis, and the balance was the revenue south thereof, and that balance when from Cincinnati via New Orleans, Vicksburg or Memphis was divided between the lines south of the Ohio River and the lines west of the Mississippi River on percents. The figure allowed to the C. F. A. lines, as stated, was not measured in any way by the service, or by comparison of ordinary considerations which are usually given weight under a system of dividing joint through rates. It was not divided with any consideration being given to the through rate. In other words, the through rate was not determined by other factors than those which I stated; what were the averages of the rates from points in Pittsburgh territory to the different crossings; what were the rates from those crossings, and what was the lowest total of the rates under consideration, that those factors would produce, a figure which could be operated by all crossings. If the rate from St. Louis was low the rate from C. F. A. territory was low; if the rate was high, the rate became high from C. F. A. territory.

Prior to October 16th, 1893, the through rates in effect when they were joint through rates divided on percentages. The through rates were governed by the Western Classification. The commodity rate was governed by what the commodity rate was from St. Louis territory, plus one of these Western Classification differentials. The rate thus made applied from a large group of points such as the Pittsburgh group, the Detroit-Cleveland group. The common rate applied from all points in those groups governed by the Western Classification. The division, however, was the specific figure which was in effect from each individual point in each of these groups to the different crossings, and that specific figure, if it was a class rate was governed by the Official Classification, and varied according to the [fol. 445] variation in the rates to the crossings from different points in the group. In other words, there was a variation of several cents in the rate to East St. Louis from the several points, from many points in Pittsburgh territory; the west side of Pittsburgh territory had the lowest rate and east side the highest. That was primarily the reason why some figure somewhat less on the average than the lowest combination of charges was necessary to produce

a system of rates that would have any permanency, any stability; otherwise you could quote the rates on combination, and they would divide themselves. We did not want to make rates which would be subject to one factor governed by the Official Classification and another governed by the Western Classification; we wanted a through rate which was governed by the Western Classification all the way.

We distinguished there between the lowest combination of charges and the lowest combination of rates, as you could not very well get the lowest combination of rates if you had one factor governed by one condition and another governed by another; it would have to be the combination of charges.

That is the situation today. That condition existed until the decision of the Commission in the Five Per Cent case. In that case, which is I. & S. 333, 31 I. C. C. 351, 32 I. C. C. 325, in 1914, the Central Freight Association lines were allowed an increase of approximately five per cent in their rates. They immediately notified the Southwestern lines that in connection with the joint through rates that were then in effect, reverting to the fact that these rates had now become joint through rates, the Central Freight Association lines were just as much responsible for them as the Southwestern lines were; and they demanded that this increase in their local rate be allowed [fol. 446] to them in the division of the joint through rates. Up to this time their local rates were equal to their divisions. Now, the Commission allowed them an increase of five per cent in their local territory, and they demanded that five per cent, or about it, anyway, they demand their revised local rates in division of the through rates then existing. We met that situation very amicably by arranging with the Commission for permission to advance the total through rates governed by the Western Classification, and governed by our commodity description, in a manner which would approximate the increase to be allowed to the C. F. A. lines, and thereafter the Central Freight Association lines received their increased local or proportional rates in division of the increased rates. That division, of course, via the St. Louis gateway applied to East St. Louis.

That condition continued until the decision of the Com-

[fol. 447] mission in Ex Parte 57, and the readjustment of the C. F. A. class rate scale under 965, which was reported in 45 I. C. C. 254, 303. In that case the Commission allowed the Central Freight Association lines an increase on certain commodity traffic of 15 per cent. They readjusted the class rates in C. F. A. territory by substituting the scale prescribed by the Commission in that case, since known as the Disque scale, for the rates that had been in effect before. The Central Freight Association came to us again with a demand that in dividing the total through rates, joint through rates, from Central Freight Association to the Southwest—all of the Southwest, Arkansas, Oklahoma, Louisiana and Texas, the increase in their rates locally within their territory under these two decisions should be added to their proportions on traffic to the Southwest and from the Southwest. This the Southwestern lines could not agree to, without shrinking their revenue to the extent to which the increase would be made to the eastern lines, and they refused to consent to their demand, unless through rates were correspondingly increased. The through rates were never increased; notwithstanding that, some of the Central Freight Association lines insisted upon receiving their increased rates for the movement of traffic which took place after the increase had been made, and the matter came to the attention of the Executive officers of the Central Freight Association lines, and they agreed to restore the basis which had been in effect prior to the increase under Ex Parte 57 and I. & S. 965. The time, as I recall it, was September 19, 1917. In other words, they agreed to restore the specifics that were in effect on September 19, 1917, the revised rates becoming effective on September 20, 1917. That presented a difficulty because the tariffs containing rates to the Ohio River and Mississippi river crossings had disappeared, they were cancelled prior to that time, and the local agents, or the agents of the lines in C. F. A. territory billed shipments to the crossings at their local rates. That took care of the divisions—that was their division; they had nothing on which to base their division to the river, and that resulted in negotiations between Mr. Morris' office and my office, and with the assist-
[fol. 448] ance of the lines on both sides a joint division sheet was finally agreed upon, in which was shown the class

rates and the commodity rates from several C. F. A. points to the Ohio river crossings at Cairo, Gale, Thebes, Cincinnati, Jeffersonville, New Albany, to Chicago and to East St. Louis, and the bases for those figures were the local or proportional rates in effect on September 19, 1917. These specific divisions that now apply to East St. Louis fall short of the locals a little more than to the extent of 40 per cent less 10 per cent. They fall short to the extent of 15 per cent, the difference between the rates in effect on September 19, 1917, and the rate in effect on September 20, 1917, under your fifteen per cent decision. They fall short to the extent of the readjustment of class rates under the Disque scale, which was generally an advance in rates and not a reduction. If the rate from a point in C. F. A. territory to East St. Louis had been 40 cents, and the Disque scale made it 45 cents, then they fall short by five cents. The grouping of the points was somewhat different under the Disque scale, but it is the old grouping and the old rates, both class and commodity, that was the new divisions, subject to the changes that have occurred since. Then in the General Order 28 increase through rates were increased 25 per cent, and the divisions were increased 25 per cent. Then through rates were increased 33 1/3 per cent under Ex Parte 74 and local rates were increased 40 per cent under Ex Parte 74, and that made again a difference of 6½ per cent, so that there is quite a substantial difference between the divisions to East St. Louis or to any one of the other crossings, as compared with the local, but the basis, and the underlying basis for the division is as I stated, the local governed by the Official Classification, applied from the individual point, while the through rate is a Western Classification rate, western commodity description, applied from a group.

To put the matter just a little bit differently, the through rates originally were made, and are today subtantially less than the sum of the intermediate rates on East St. Louis or St. Louis or Cincinnati or Louisville or Chicago. They are divided on a basis which goes back for its foundation to [fol. 449] the local rates of the lines composing one part of the through haul, rather than percentages or mileage prorate, or any other basis that is usually employed in deciding upon divisions. To these specifics that were checked out as based upon the rate adjustment in effect prior to the Disque scale, and the fifteen per cent advance there has

been added an increase of 25 per cent, corresponding with the increase in through rates under General Order 28, an increase of 33 1/3 per cent, corresponding with the increase in the through rates under Ex Parte 74, a reduction of ten per cent corresponding with the July 1, 1922, ten per cent reduction, and those figures are now what the division sheet shows, in specific form. That is as to class, and commodity rates.

Whenever, under General Order 28, a flat advance in commodity rates was ordered, that was applied, the division was increased in the same amount, percentage or otherwise, that the through rate was advanced.

Since they told me yesterday that they wanted me to testify here, I have been unable to think of, or locate any situation on southbound traffic from C. F. A. territory to the Southwest where this system of divisions was not in effect. There probably are a few instances where the total rate has been made on the sum of the intermediate rates and therefore would divide via the gateway on which the division was made by local rates to and from the gateway forming the total combination. In the reverse direction, on traffic from the Southwest, we do not carry this same system of total rates, except from points in Louisiana; from points in Louisiana, rates, class and commodity, are extended into Central Freight Association territory groups, but from Arkansas, Oklahoma and Texas we do not have class and general commodity rates north bound into the C. F. A territory, but we have rates on certain moving commodities, which from time to time have been made, either on the sum of the intermediate rates through the different crossings, or on some other basis which was decided upon to be proper in constructing a total rate in those cases, and have as a rule been the subject of specific understandings with the C. F. A. lines as to divisions, and a good many [fol. 450] joint division sheets are published by their agent and myself, reflecting those agreements. This is true on cottonseed products, lumber, cotton and linters, and certain vegetables, hides, butter, eggs and poultry, and so forth. In all of those cases the division allowed the C. F. A. lines when via the St. Louis gateway applies from East St. Louis, and not from St. Louis.

By Exam. Disque:

"Q. Now, you say they have been agreed upon?"

"A. Yes sir."

"Q. But now you come into this case, and ask that that agreement be abrogated?"

"A. We do not ask that that agreement be abrogated. I did not say that we ask that that agreement be abrogated on what I am testifying to now. We ask that it be left just as it is, that on traffic going across the Mississippi river from St. Louis to East St. Louis that we continue to deliver it to the east side lines at East St. Louis, and make no change whatever in these agreed figures."

In the reverse direction rates made as I have stated, and which are lower than the sum of the intermediates, but which started off in the manner I have stated, should divide by allowing to the C. F. A. lines the figures that they now use to St. Louis instead of East St. Louis. It seems to me that if the rate today from Pittsburgh to Dallas was the sum of the rates on East St. Louis or St. Louis, that it presents no different question than a rate which finds its history in a combination, or a figure slightly less than a combination, handled for a great many years on the basis of allowing for the haul from Pittsburgh to East St. Louis their local rate, there is no difference between the two problems as I see them.

"Q. Now, the Cotton Belt from St. Louis to Texas has to run through East St. Louis from St. Louis, don't they?"

"A. I believe they do, yes sir."

"Q. They have got to apply the St. Louis rate from East St. Louis then?"

"A. Yes sir."

"Q. The other lines have to meet them, and that is the reason for applying the St. Louis rate to East St. Louis?" [fol. 451] "A. No, we have further reasons than that. All of our rates to Texas are group rates. The St. Louis group begins a little west of Kansas City, and runs up as far as the Q. & C. Railroad across, that is, up in the northern part of Missouri; it goes up to Hannibal, goes up to Quincy, goes over in Illinois, quite a little ways, goes to Belleville, goes to a substantial territory south of St. Louis. In other

words, it is a group rate, and East St. Louis is one of the points in that group."

When the Southwestern lines started this system of through rates, in 1894, there was no rate to St. Louis; there was only a rate to East St. Louis; I believe it was January 1, 1908 when the rate became the same to St. Louis as to East St. Louis. The factor that had been used as a division for the C. F. A. lines became applicable as a local rate both to St. Louis and East St. Louis, and as a division of the through rate, up to the time when it began to sink away from the local figures.

These divisions that I speak of which were allowed the lines up to East St. Louis applied to Texas, Oklahoma, [fol. 452] Arkansas and Louisiana and all points in Oklahoma where there were joint through rates. They also applied on traffic to points in Kansas where the overhead Oklahoma rate beats the combination on St. Louis to that territory, and the overhead rate is published as the through rate to Kansas. That Kansas territory is defined as on and east of the Santa Fe down through Wichita.

"I think it is Boyd's tariff 97 isn't it, that defines the territory?"

There are no joint rates from Eastern Trunk Line Territory roughly defined as the territory east of the western termini of the Eastern Trunk Lines, Buffalo and Pittsburgh, to the Southwest. Traffic moves on two bases; one is the combination via the route the shipments move, and the second is on the basis of rates to the different crossings plus proportional rates which we have established from time to time to equalize this lowest combination. In other words, if the lowest combination is on Louisville on machinery from Waynesboro, Pennsylvania, we will say, the lines through East St. Louis would not be able to participate in the traffic, so we publish a proportional rate, the figure being the combination on Louisville, less the rate from Waynesboro to East St. Louis. The remainder is our measure of the rate. In that way we participate through East St. Louis, on the Louisville combination, but there are no joint through rates.

The rates from Trunk Line territory to East St. Louis and to St. Louis are the same. I have no figures as to the

amount we have to shrink our local rates from the St. Louis group to the Southwest under this divisional arrangement from C. F. A. territory to the Southwest. I had a statement made up sometime ago which I tried to find, but was not able to locate it. The shrinkage is substantially greater than the shrinkage in the division of the eastbound line, as compared with its locals both in percentage and in figures.

"Exam. Disque: If the Commission should enter upon an investigation of the divisions of joint through rates between C. F. A. territory and the Southwest, would your evidence be any different than that which you have now offered?"

[fol. 453] "Mr. Leland: Why yes, if I should testify in that case, I should have a great deal to say about the volume of the division as compared with the volume of the division, I am not talking about that at all."

Cross-examination:

Comparing our divisions today west of East St. Louis with our locals prior to the readjustment of eastern rates under I. & S. 965 they should be exactly the same per cent, because of the fact that the division today is based on that local rate there, ex the 15 per cent case. Now, the division has changed in the same measure as the through rate, namely 33⅓ per cent, 25 per cent, and down 10. Comparing the proportions today from the east to St. Louis with the locals east, prior to the readjustment of eastern rates under I. & S. 965, the divisions would be a percentage less than they were at that time, because the division was increased 33½; and the local rate was increased 40 per cent; [fol. 454] to offset that, however, there was an increase in the local rate from St. Louis of 35 instead of 33⅓. The Disque scale also changed that adjustment.

Robert N. Nash, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

My name is Robert N. Nash, assistant freight traffic manager of the St. Louis-San Francisco Railway, St. Louis, Missouri, residing at St. Louis; have had about 27 years

in rate and traffic matters, and have been with the Frisco for the past 13 years.

The witnesses for the defendants in this case base their refusal to assume any part of the expense of the river transfer at St. Louis upon two theories; first, that the rates between St. Louis and points east of the Indiana-Illinois state line were established purely to satisfy the sentimental demand of the St. Louis business interests, and were not so constructed as to include the cost of the Mississippi river bridge toll; second, that the rates as published by the west side lines between St. Louis and western points have been made with the full understanding that they must be applied to East St. Louis, and therefore must be so constructed as to include the cost of crossing the Mississippi river at St. Louis.

A careful review of the testimony presented by Mr. Maxwell, supplemented by such additional testimony as I expect to give, should conclusively prove to any impartial person that these theories are incorrect. Mr. Maxwell and Mr. Sudborough have given a very thorough and complete historical sketch of the rate situation, and I have no criticism to make of any of the facts presented by them. We will admit that prior to 1908 the rates as published by the east side lines were not so constructed as to give consideration to the St. Louis bridge toll, for the reasons that they attempted to confine the application of these rates to and from East St. Louis. Mr. Maxwell gave data as to the changes which were made in the rates to and from East [fol. 455] St. Louis following the demands of the St. Louis Chamber of Commerce and the City authorities for the recognition of St. Louis as a destination to and from which through rates might be applied and through bills of lading issued to and from eastern points. In order that the Commission have the figures clearly before it I have prepared a statement showing the rates from certain representative eastern points to St. Louis and East St. Louis from January 1, 1906, at which time there were no through rates published to St. Louis, up to the present time.

(Exhibit No. 72 was received in evidence, marked "Complainants' Exhibit No. 72, Witness Nash.")

An examination of this exhibit indicates that, as stated by Mr. Maxwell, originally an effort was made to placate

the St. Louis interests by publishing through rates to St. Louis on a somewhat higher basis than the then existing rates to East St. Louis during the year 1906, but this did not satisfy the St. Louis people, and effective at various dates during the early part of 1908 from different points of origin, but in the majority of cases February 1, 1908, the rates to St. Louis and East St. Louis were made the same. As has already been explained by Mr. Maxewell, this was not done by reducing the rates to St. Louis to the then existing basis from East St. Louis, but it was done by increasing the rates to East St. Louis from Eastern Trunk Line territory from 116 per cent of the Chicago rate to 117 per cent and applying that increased rate also to St. Louis. The result of this adjustment was to make through rates from points east of the Indiana-Illinois state line to destinations in Western Trunk Line territory, to which there were no joint through rates and to which the rates from St. Louis and East St. Louis are the same, make on either the East St. Louis or the St. Louis combination. The east side lines, however, insisted that such through rates should continue to make on East St. Louis and that traffic should be interchanged with the western lines at East St. Louis. At the same time that the rates from the east to East St. Louis were increased from the 116 to the 117 per cent basis the [fol. 456] same increase was made in proportional rates from the east to all of the upper Mississippi river crossings, so that to the destinations in Western Trunk Line territory to which the rates from all the river crossings were the same, through rates based on the river combination continued to equalize through all the crossings. The 117 per cent basis was the figure which they adopted, and which was a figure higher than the then existing rates to East St. Louis. While this, of course, was only slightly higher than the previously existing rates to East St. Louis and the increase in the rates was not sufficient to cover the Mississippi river transfer, as then published as a separate charge, the fact must not be lost sight of that the increase was also applied to the east bank Mississippi river crossings on all traffic from the east to points west of the Mississippi river except Trans-continental traffic. In order, therefore, to offset to some extent the reductions which they had give the St. Louis business interests, they added to the proportions which they demanded on traffic from the east to points

in Western Trunk Line territory to which through rates were made on combination basis and also to the traffic from eastern points to points in Southwestern territory where the rates were made on differentials and where the east side lines at that time demanded their local in dividing this increase in the level of the rates, so that on this tremendous volume of through traffic, vastly larger than the traffic to St. Louis, they exacted from the shippers and receivers in Western Trunk Lines territory, and from the Southwestern Lines on Southwestern business this increased toll in order to offset the reductions which they had made for the City of St. Louis. While, as I shall show later, the proportion which they now exact on traffic destined to Southwestern territory is not as much as their local rates, they are still demanding and receiving their full local rates to East St. Louis and other east bank crossings on traffic to Western Trunk Line territory to which rates are made on combination basis, and on this traffic still receiving the benefit of these increased proportions to the east bank crossings as increased by the subsequent general increases.

[fol. 457] Mr. Sudborough has referred to the controversy in 1915-16, which resulted in the change which was brought about by the publication of certain notes in Agent Cameron's tariffs. That change was brought about by the efforts made by the west side lines in the latter part of 1914 to compel the east side lines to protect their lawfully published rates on traffic delivered to them at St. Louis, going east. Having failed to get them to consider a reasonable settlement of the controversy, we decided in the fall of 1914 to offer them at St. Louis eastbound traffic, and offered to them from St. Louis the publish tariff rate from that point to destination, that rate being the same as the rate from East St. Louis. We therefore delivered the cars to the Terminal Railroad Association, their agent at St. Louis, collecting, in the case of through rates made on combination basis, our rate to St. Louis and in the case of through rates less than combination the difference between such through rate and the local rate from St. Louis to destination. The east side lines refused to accept these shipments from the Terminal unless the line delivering them to the Terminal agreed to pay the Terminal charges. The result was that the cars were brought back to the west side lines, and some of them, refused by the west side lines,

were held in the Terminal's possession. The result of this situation was that it very quickly caused congestion in the yards and considerable delay to freight, although the west side lines diverted a great deal to other gateways. Finally the complaints of shippers became so General that the matter was placed before the Interstate Commerce Commission. On the appeal of that Commission, and in order to prevent undue hardship on our patrons, we yielded to the demands of the east side lines, and, while still maintaining that we were within our rights in insisting that they accept these shipments at St. Louis on basis of their lawfully published tariff rates from that point, we resumed the old practice of paying the bridge toll on both east and west bound traffic.

That was taken up before the Commission informally. There was no formal hearing at that time. In fact, there was no hearing at all. Several shippers wrote to the Com- [fol. 458] mission accusing us of delaying their freight, and in order to satisfy those complaints and to prevent unduly burdening our shippers with a controversy in which they really had no direct interest, we receded from the position we had taken, and continued to submit to the demands of the east side lines.

The east side lines, then, in order that they might be protected from a possible violation of the Act in refusing to protect the combination on St. Louis, placed the items in their tariffs which have been referred to by Mr. Sudborough as having been called to the attention of Mr. Longstreet by the Interstate Commerce Commission. This item clearly caused a violation of the Fourth Section of the Act, and that was practically admitted by the east side lines. So in order to prevent this violation the item was amended to the basis agreed upon at the conference between the east side lines and representatives of the Commission, which, according to their idea, prevents a technical violation of the Act. It is a rather unusual practice, however, for a carrier to provide that a local rate published to and from a recognized gateway may not be used in constructing through rates.

"Exam. Disque:

"Q. In the nature of billing instructions, isn't it?".
"A. No sir."

"Q. It notifies the eastern agents to bill their freight to East St. Louis instead of St. Louis."

"Absolutely not. There is a note in the tariff saying that the east side lines will not consider the rate from St. Louis to Cleveland, Ohio, for example, as a factor in constructing the through rate from a point in Missouri on a combination basis, although they will accept that rate from St. Louis proper.

By Mr. Burg:

"Q. It was simply a device, was it not, to prevent the application of the St. Louis rate on through traffic?"

"A. As a device to prevent the application of a really lawful combination, yes sir."

As explained by Mr. Leland, from the early days up to the time of the 15 per cent increase of 1917 east side lines had been allowed their local rates in the division of through rates published from territory east of the Indiana-Illinois [fol. 459] state line to the Southwest, and of course, to Western Trunk Line territory where the rates made on East St. Louis Combination they received their full local rate to the east bank crossing in dividing. As I have also explained, these rates to the east bank crossings had been increased at the time through rates to St. Louis were established. As further evidence, and as a definite showing of these facts, I selected a few shipments moving in May and June, 1917, from eastern points to points in Kansas, Oklahoma, and Missouri, and have shown the through rate, the proportion east of East St. Louis, the proportion west of East St. Louis, and also the rate from the same point of origin to East St. Louis, Illinois, which is also the rate applicable to St., Louis, Missouri, proper.

Exhibit No. 73 was thereupon offered and received in evidence, marked "Complainants Exhibit No. 73, Witness Nash.")

An examination of this statement shows that in each one of the cases listed the proportion which the line up to East St. Louis received was exactly the through rate from the point of origin to St. Louis. The first sheet shows shipments destined to point in Kansas, and, with the exception of one or two commodities to one or two of the points near

the Kansas-Oklahoma state line, to which Oklahoma rates made on a differential basis applied as maximum, the through rates are constructed on the East St. Louis combination, and as the rate from East St. Louis is the same as the rate from St. Louis the same rates would be made on St. Louis combination, but for the artificial barrier placed against such construction by the notes in the tariffs referred to by Mr. Sudborough. On the second page showing shipments to Oklahoma, the division received of the lines up to East St. Louis was exactly the same as their local rate to St. Louis, Missouri. It show the condition as it existed in 1917 immediately before the 15 percent increase. I have taken the charges shown on the waybills as paid to the east side lines on all of the shipments listed on the first page, and also the charges paid to the Terminal Railroad Association for the transfer across the river, [fol. 460] added those two charges together, making a total of $3,731.66 as paid up to St. Louis. The charges on the same shipments had they been billed locally to St. Louis would have been $3,471.64; so that on these shipments billed through to points beyond St. Louis the lines bringing the traffic as far as St. Louis received 7.4 per cent more than their local St. Louis rate. I am including in that the service across the river to St. Louis. The total charges received by the line up to St. Louis, Missouri, including the Terminal Railroad Association, even if you want to consider that a separate line, bringing the shipment to St. Louis and delivering it to the Frisco Railroad, and collected from the Frisco Railroad, were 7.4 per cent more than their local St. Louis rate on this through traffic.

"Exam. Disque: You do that same thing eastbound, but you want it reciprocal?

A. No, sir, we do not do it eastbound.

Exam. Disque: You ask for that.

A. We cannot get it over there.

Exam. Disque: You want to be able to do east bound what they are doing westbound?

A. No, we want them to do westbound what we do eastbound."

[fol. 461] To this same territory in Kansas to which the combination basis applies today, the same situation exists, so that on all the traffic which comes from points east of

the Indiana-Illinois state line and goes southwest, in Kansas, as shown in this exhibit, these east side lines are today demanding from us 7 per cent more than the local rates to St. Louis, before they will give us the through traffic to carry to Kansas. We want to do exactly what we are doing on eastbound traffic, carry the traffic over to East St. Louis, but we want them on westbound traffic to bring the shipments to us at St. Louis and not charge us 7 per cent more than they would charge a shipper in St. Louis for the same service. On eastbound traffic we are willing to pay the Terminal Association charges to carry it over to East St. Louis. On westbound traffic we want the east side lines to pay the Terminal charge to bring it to us at St. Louis, but they won't do it.

"Exam. Disque:

"Q. But on westbound traffic under the plan you suggest, you and the Terminal will be charging somewhat more than your rate from East St. Louis, won't you? You will be charging 7 per cent more than the St. Louis shipper pays?

"A. Well, that is true."

The trouble is that it is not being applied the other way now. At the present time we are paying in both ways.

On the second sheet, which shows the shipments destined to points in Oklahoma, we have the same kind of a situation. [fol. 462] In that case at the time these shipments moved the lines bring the shipments to St. Louis receiving 6-8 per cent more than they would have received had the shipments been delivered in St. Louis proper, although in this case the shipments moved under joint through rates which were less than the combination of the locals to or from St. Louis-East St. Louis. Of course, as to the Oklahoma shipments, the situation is not the same today because of the conditions as outlined by Mr. Leland.

The rates between Central Freight Association territory were revised in September, 1917, on a mileage basis in accordance with the Disque scale under I. & S. Docket 965. According to the testimony of Mr. Maxwell, the rates to and from St. Louis were made by using the scale based upon a distance arrived at by adding three miles to the actual East St. Louis mileage and the rates so made were

applied to a group of territory adjacent to St. Louis, such as Alton and Edwardsville. All of these points are east of St. Louis, and therefore closer to C. F. A. territory, so in this case, in making the group the Central Freight Association lines took the most distant point in the group and applied it for the entire group. I do not know the exact extent of the group, but one point mentioned by Mr. Maxwell, Edwardsville, is about 22 miles east of St. Louis; therefore it is fair to assume that the scale was applied over a minimum group of about 25 miles. In view of the fact that the scale breaks on 10-mile groups up to 300 miles, and 20-mile groups from 300 to 660 miles, it is evident that in applying this scale for the St. Louis distance Edwardsville and other points more than twenty miles east of St. Louis were given rates which gave the east side lines additional revenue over and above the scale, this affording them some compensation for the added distance across the Mississippi river. So again I say that the rates established by the east side lines to and from St. Louis have been made with some consideration of the added expense of getting across the river, and if they were not so made the opportunity has been before the east side lines to take care of this situation in 1907, and as to C. F. A. territory in 1917, and if they have not done so it is their own fault.

[fol. 463] As to the second contention, that is, that the west side lines have always known that they had to pay the bridge toll and therefore have so constructed their rates as to take care of this toll in them. It is true that they have since 1877 known that they had to take care of these tolls, because that situation has been forced upon them. It is not a fact, however, that rates to and from St. Louis have ever been made with the idea in mind or in contemplation of the assuming out of those rates of the expense of crossing the Mississippi river in order to reach St. Louis-East St. Louis, I should say. The very facts as testified to by Mr. Sudborough and Mr. Maxwell in their testimony, as bringing about the first application of St. Louis rates to East St. Louis should be sufficient evidence of the truth of this statement. Prior to 1877 there were no through rates published from the West to East St. Louis, and the rates to East St. Louis made by adding the bridge toll. How can it possibly be said that the rates in existence at that

time to St. Louis had in contemplation the absorption of the necessary bridge toll to carry the traffic to East St. Louis?

And yet it was those rates then in effect that were applied to East St. Louis by the Chicago & Alton Railroad when they constructed their line into that point in 1877 and it was those rates that the other west side lines met under the compulsion of competition. I do not know what the exact scale rates at that time were, nor the basis for them; the earliest rates that I have been able to locate being the 60 cent scale of rates which was in effect at the time of the Burnham-Hanna-Munger case, tried in 1907. That scale of rates was based upon the Missouri State mileage scale from Hannibal to Kansas City, a distance of 200 miles, and in order to equalize the routes through all of the Mississippi river crossings it was applied from St. Louis to Kansas City, for a distance of 278 miles, and because of the competition of the C. & A. Railroad also applied from East St. Louis to Kansas City. How can any [fol. 464] possible contention be made that that scale of rates made by a state distance scale for 200 miles, and applied, because of competitive conditions, for a distance of 278 miles, was made with the idea of including sufficient revenue to take care of the Mississippi river bridge toll? The very idea is absurd.

Mr. Maxwell lays a great deal of stress upon the decision of the Commission in the Warnock case. He contends that if the east side lines are compelled to deliver this traffic to the west side lines at St. Louis, and the west side lines receive the revenue from St. Louis based upon the 55 cent scale established by the Commission, the west side lines will be demanding more revenue than the Commission authorized in that case; therefore will be in violation of the order. In the first place, the order expired two years after it was issued, and therefore we need not worry much about the violation. However, it is not a fact that the application of this 55 cent scale was confined to East St. Louis. The Commission repeatedly in the opinion in that case uses language which is convincing of the fact that it intended the rates to be applied from St. Louis. On page 552, Volume 21, at the top of the page reference is made to the fact that the haul via some lines from the Mississippi river to

the Missouri river is wholly within the State of Missouri, and via other lines wholly within the state of Iowa. How could this be if it were thinking only of the east bank Mississippi river points? Further on the same page it refers to the rates from all of the Mississippi river crossings St. Louis—not East St. Louis—to East Dubuque, both inclusive. Again, on page 556 in its findings it states that the rates from points in Trunk Line, Central Freight, Southeast and Carolina territory applying through the Mississippi river crossings St. Louis to East Dubuque, both inclusive, are unreasonable and the carriers are ordered to establish from said Mississippi river crossings—St. Louis being one of the said crossings—to Missouri river cities the scale of rates named therein, beginning with 55 cents, and in the order the Commission required the carriers to establish these rates from Mississippi river crossings, St. [fol. 465] Louis to East Dubuque, inclusive. It includes East St. Louis, but it would not exclude St. Louis, as Mr. Maxwell has contended.

"Mr. Roberts: Let's read the exact wording of the order.

Exam. Disque: If it includes St. Louis, that is what they are contending, that they made it high enough for both.

The Witness: "Rates on the first and fifth class for the transportation of freight from Mississippi river crossings, St. Louis, Missouri, to East Dubuque, Illinois, inclusive," that is the way the order reads. How can that do anything but include St. Louis?"

[fol. 466] "Exam. Disque:

"Q. Includes East St. Louis and St. Louis?"

"A. The Witness: Absolutely, yes, sir."

"By Exam. Disque:

"Q. The eastern lines agree with you?"

"A. No, they do not, at all; Mr. Maxwell said we could not charge 55 cents from St. Louis without charging more than the Commission told us we could get in this order. I have never contended that it was not from East St. Louis. As I understand their contention, it has always been that these rates prescribed by the Commission were not intended at all to apply from St. Louis, but were intended to apply

only from East St. Louis; that is not in accordance with the Commission's order.

"Q. But the Commission having made the rate high enough to apply from East St. Louis, high enough to include the bridge tolls, the western lines should pay them.

"Mr. Larrimore: Well, we did; we have ever since; but inasmuch as it also applied from St. Louis why should not the eastern lines pay their proportion of it?"

"Exam. Disque: In other words, the Commission did not pass on that question at all in that case."

"Mr. Burg: Did not pass on the bridge toll at all."

"Mr. Strasser: If the western lines construed those rates as applying from St. Louis, why did they publish them only from East St. Louis?"

"The Witness: Because, I assume—I don't know, not having personally handled the situation at that time—the fact that the east side lines insisted upon making East St. Louis the interchange or rate breaking point, and maintaining that position made it useless to publish them from St. Louis, because it would not have meant anything. That is the only reason I can see for failing to publish them from St. Louis also.

As further evidence of the fact that the Commission had in mind the application of these rates between St. Louis and Kansas City, I refer to complaint of the State of Kansas versus A. T. & S. F. Railway, 27 I. C. C. beginning at page 673. On page 676 the Commission says:

'In Warnock versus C. & N. W. Railway Company, 21 I. C. C. 546, the Commission prescribed 55, 41, 32, 24 and 20 cents as maxima on the first five classes between the Mississippi and Missouri rivers on through traffic to the [fol. 467] Missouri river originating east of the Indiana-Illinois state line, or representatively for the haul between St. Louis and Kansas City.'

Again the situation was brought before the Commission in the so called Interior Iowa Cities cases, reported 46 I. C. C. 39. There again reference is made to the 55 cent proportional class scale ordered in effect between the Mississippi and Missouri rivers on through traffic. The complaint of the Iowa cities was that failure of the carriers to use that

55-cent scale properly graded back through the state as a measure of the rates from the east to these interior Iowa cities created a discrimination against them, and demanded that rates be made based upon the scale so graded. The Commission in that case refers to the previous decision by it in the so called Mississippi river case, 28 I. C. C. 47, and 29 I. C. C. 530, and on page 46 states:

"Thereupon the Commission, apparently of the opinion that the reasons which moved it to approve the spread between the upper and lower crossings on traffic to and from the Trunk Line Territory had ceased to exist, entered an order in the Mississippi river case, supra, requiring that the upper and lower crossings be put upon an equal rate basis, thus, in respect of trunk line traffic making a straight rate-basing line of the river between Dubuque on the north and St. Louis on the south. By virtue of the order the lower crossings class rate from the trunk line territory of 92.2 cents became also the local class rate from the same territory to the west bank upper crossings."

Further down on page 46 the Commission says:

"The local class rates from Trunk Line territory to the west bank upper crossings therefore become also the proportional class rates from the same territory to the east bank upper crossings, and in consequence of this change the sum of the two proportional class rates to and from the east bank upper crossings exceeded, in violation of the fourth section, the aggregate of the intermediate rates to and from the west bank upper crossings by the amounts of the arbitraries added to the Iowa distance scale."

The findings of the Commission in this case, as set out on pages 59 and 60, are that—

"for the future reasonable maximum through class rates between points in the Official Classification Territory east of the Indiana-Illinois state line and the interior Iowa cities will be made by adding to the local or proportional rates, whichever are lower, applicable between points in [fol. 468] official classification territory west of—east of the Indiana-Illinois state line and the west bank of the Mississippi river proportional class rates subject to the

Western Classification, not in excess of those shown in the following table."

That table sets the 55 cents Mississippi-Missouri river scale for distances 281 to 300 miles, and grades it back for the shorter distances. This makes it more than ever obvious that the Commission considered the 55 cent scale as being applicable from the west bank river crossings.

I would like at this point to offer an exhibit showing the exact situation as to this Iowa territory. I am offering this exhibit, and referring to this decision, Mr. Examiner, principally to show that in a situation which is very similar to that existing at St. Louis, where the east and west bank crossing rates are the same, the Commission specifically ordered the application of the rates to the west bank plus proportional rates from the west bank, and that those rates from the west bank were based upon the scale established by them in the Warnock case. Now, this exhibit shows through rates from Buffalo and Pittsburgh, on sheet 1, and from New York on sheet 2, to Des Moines, Iowa, as made on the combination through the various gateways. Columns A and B show the proportional and local rates, respectively. You will see that to East Dubuque, for example, you have a rate of $1.22-1/2 on first class from Pittsburgh. Across to the right of the sheet you have the local rate from East Dubuque to Des Moines, 88 cents. The next line shows that the rate of $1.22-1/2 also applies from Pittsburgh to Dubuque, Iowa, and with the 48-1/2 cent rate from Dubuque, Iowa, to Des Moines, added to that rate makes the through rate from Pittsburgh to Des Moines, so that in that case the Commission uses rates established to the west bank of the river added to the proportional rates west of that west bank, and does not consider the combination on the east bank as the proper basis.

I think that is true only from western termini and points east thereof.

I also call attention to the fact that the rates to these [fol. 469] river crossings are the same as the rate to St. Louis, Missouri, $1.22-1/2 cents. These proportional rates from Dubuque also apply on traffic from C. F. A. points. According to the Commission's order they apply from all

points; they apply on traffic from all points east of the Indiana-Illinois state line. These proportional rates from Dubuque do not also apply from East Dubuque. Through rates from C. F. A. territory to Des Moines are made on the west bank crossing basis. That is true only to Iowa. It is not true to Nebraska, because the Commission has not yet handled a similar case, but it should be true to Nebraska after we get through with this case, because the same basis should be applied to Nebraska and to the Missouri river as they applied to Des Moines in that case. The rates from upper crossings, on the east bank, to Nebraska points are the same as from St. Louis, Missouri, to Nebraska points. That is the reason for this Iowa case.

(Thereupon said exhibit was received in evidence, marked "Complainants' Exhibit No. 74, Witness Nash.")

With further reference to this particular angle of the situation: The rates between St. Louis and points in Missouri are under control of the Public Service Commission of Missouri, therefore it is absurd to say that it is possible for the carriers to so adjust these rates as to make the rate to St. Louis sufficiently high to include the St. Louis-East St. Louis bridge toll. From the territory close to the river, where competition has not prevented it, we have made the rates to East St. Louis based upon the rate to St. Louis proper plus the bridge toll, but from the territory outside of that range competitive conditions have made such an adjustment impossible. The same old C. & A. situation which has been referred to so frequently is responsible for that. The line of the Kansas City Southern Railway runs north and south along the western border of Missouri, and in connection with the C. & A. railroad forms a route from junction points with the Frisco, Missouri Pacific and M. K. & T. to East St. Louis. Following the policy of the C. & A. [fol. 470] in making the St. Louis rate apply to East St. Louis, they joined the Kansas City Southern Railway as well as other lines which might interchange freight with them at Kansas City, such as the Santa Fe and Rock Island, in making the same adjustment possible and applicable from points on that line in Western Missouri. The result, of course, is that the direct lines to St. Louis, such as the Frisco, Missouri Pacific, and Katy, have had to meet that

competition as they found it. As evidence of that condition I have prepared and will now file an exhibit showing the rates now in effect between St. Louis and certain points in Missouri, western Missouri, compared with the Missouri state scale for the same distances.

(Thereupon said document was received in evidence, marked "Complainants' Exhibit No. 75, Witness Nash.")

With particular reference to Joplin, Missouri, the rate from Joplin, as you will see, is lower than the Missouri state scale for the distance. The Kansas City Southern Railway, operating from Neosho, Missouri, through Kansas City, and the C. & A. Railroad or the Wabash, or other lines to St. Louis meet the short line rate of the Frisco from Neosho to St. Louis, and as the C. & A. operates through East St. Louis apply it to East St. Louis, that was lower than the mileage scale, and the minimum rate from Joplin to St. Louis, and in order to prevent violation of the Fourth Section that rate was made to apply from Joplin. Therefore we have a rate fixed for us from Joplin into East St. Louis, Illinois, which is lower than the Missouri state scale from Joplin to St. Louis, Missouri. The Joplin situation also applies in the reverse direction. It applies both ways. It is therefore obvious that it is impossible for the west side lines to so construct rates to St. Louis, Missouri, as to make them sufficiently high to include the bridge toll to cover the crossing to East St. Louis, and it is also obvious that it is necessary for the lines serving St. Louis, Missouri, to publish the same rates to East St. Louis as to St. Louis, because of the competition via the routes through Kansas City.

At one time we had competition via the C. & A. at Spring-
[fol. 471] field. There was an independent line operating from Springfield to Kansas City, which did not serve St. Louis. That brought about a competitive situation at Springfield. Of course, there is an added competition there that we have always given some consideration to, that is, that the Springfield jobbing interests are in active competition with the Kansas City jobbing interests through that western territory, and that is another condition that has forced a situation at Springfield that prevented us getting the rates up

to what we might consider a reasonable maximum scale for that service. I am trying to emphasize that it is impossible for the carriers to make rates to St. Louis what they might consider a reasonable maximum basis in order to spread them over to East St. Louis and include this bridge toll, because of competitive conditions of many kinds. The C. & A. is one competitive condition. I don't know whether that is the most important or not; there are a whole lot of others. For instance, here is the Missouri State Commission; if we would go to the Missouri State Commission, and say that we want to inflate the rate to St. Louis from Springfield or any other points so as to make it high enough to spread it to East St. Louis, I hardly think they would consider that as a reasonable request.

We cannot increase the rate from East St. Louis and not from St. Louis because the C. & A. won't let us. We cannot induce the C. & A. to join because they would have to go out of the St. Louis business if they did, because they handle St. Louis business through East St. Louis.

The rates that we apply from St. Louis to Missouri we apply locally within Missouri as a rule.

As to the Kansas situation. It is beyond the possibility of the carriers to so adjust their rates as to take care of the bridge toll between St. Louis and points in Kansas, for the reason that those rates were fixed by the Interstate Commerce Commission in State of Kansas versus A., T. & S. F. Railway, 27 I. C. C. 673. That was a complaint brought by the interior Kansas cities, and attacked the through rates from St. Louis, Missouri, to points in Kansas. The rates were reduced by the Commission, and throughout [fol. 472] the entire discussion of that situation no mention whatever was made of the rates to or from East St. Louis. The rates were fixed by the Commission as reasonable maximum rates to or from St. Louis, and, again, because of competitive conditions and not because of what any railroad man might have thought was proper, these rates so fixed as reasonable maximum rates from St. Louis were applied from East St. Louis. However, on this through traffic from points in C. F. A. territory and east to these destinations in Kansas, the lines operating west from St. Louis are compelled by the arbitrary attitude of the east side lines to accept for their services less than the reasonable

maximum rates fixed by the Commission, whereas the lines that bring the traffic to St. Louis demand and receive more than the rates which they themselves fixed in 1908 and in 1917, as fair and reasonable rates for the delivery of this traffic in St. Louis proper. They get the East St. Louis rates, and deliver it to us in East St. Louis, making us pay the bridge toll.

"By Mr. Northcutt:

"Q. You get your East St. Louis rates for the haul to destination?"

"A. Well, the difference in the situation is there. Your St. Louis rates were made by you deliberately; our East St. Louis is forced on us by competitive conditions that we cannot control at all.

In the Memphis Southwestern Investigation, Docket 9702, 55 I. C. C. 515, the Interstate Commerce Commission established a line of class rates, and in a later decision in the same docket, 77 I. C. C. 473, a line of commodity rates between points in Southwestern Territory, including the river crossings of St. Louis, Cairo, Memphis and Vicksburg. The carriers in that case, in discussing the rates from St. Louis to Arkansas points, endeavored to have the Commission make the rates from the St. Louis—East St. Louis industrial district based upon the mileage from East St. Louis because that mileage was greater than the mileage from St. Louis, and because they recognized the fact that competitive conditions would force them to apply whatever rates were made by the Commission from the group from the entire industrial district. The Commission says:

"It is believed, however, that in applying a distance scale the rates should generally be made on a short line distance basis without attempting to follow the actual move-
[fol. 473] ment of the traffic over the various routes. The Missouri Pacific and the St. Louis San Francisco have their own rails direct from St. Louis to Arkansas and the distance should apparently be figured over those routes.

The distances were figured over those routes, but because of the competitive condition the distances so figured,

or, rather, rates for the distances so figured, were applied from East St. Louis and the carriers handling East St. Louis traffic across the river at St. Louis have to absorb the bridge toll. It is obvious that with the Cotton Belt operating from St. Louis via East St. Louis to points in Arkansas and with the Illinois Central operating from St. Louis through East St. Louis and back through Memphis or Vicksburg or New Orleans to Arkansas and Louisiana points, it would be impossible to carry the rates from East St. Louis higher than from St. Louis. Therefore, we were compelled to apply the rates as fixed by the Interstate Commerce Commission for the distance from St. Louis to destination on traffic from East St. Louis and absorb these tolls. As contrasted with that situation, look at the situation at Memphis. Here the Commission had before it a situation where the river crossings must be taken into consideration, and on pages 540 and 541 the situation is discussed. The Commission in that case authorizes that the rates be figured for the distance from Memphis to the destination west of the river, and to the rates based on this distance shall be added certain bridge tolls as additional compensation to cover the crossing of the Mississippi river.

In the two largest rate cases we have had in this Southwestern territory, in the last few years, decided by the Commission, the west side carriers were required to base their rates on mileage from St. Louis proper, whereas from Memphis they were specifically allowed the addition of a bridge toll, and that after figuring the distance from Memphis itself. In the so called Natchez case, 52 I. C. C. 105, the Commission had under consideration the question of rates between Natchez, Mississippi, Vicksburgh, Mississippi, Baton Rouge and New Orleans, Louisiana, to points in Louisiana and Arkansas and in the original decision in [fol. 474] those cases the carriers were permitted to add 20 miles to the actual distance to or from the west bank points to compensate them for the additional expense of crossing the Mississippi river. These cases were reconsidered, however, in Docket 12478, Allowances of Mileages for Mississippi River Crossings, decided November 11, 1924. 93 I. C. C. 462. In that case the Commission changed its decision in the former case, and instead of the

20 miles additional haul, fixed certain specific arbitraries, beginning at 6-1/2 cents for 1st Class, which should be added to the mileage scale to take care of the river crossing.

In the original 9702 case, 55 I. C. C., the question of rates to and from Cairo, Illinois, was also in issue, but no great amount of testimony was presented with reference to these rates, and the Commission issued no order covering them, but stated that it would be satisfactory to apply the scale fixed by it between St. Louis and Arkansas points, also from Cairo and Thebes, to which might properly be added the same bridge tolls as were authorized at Memphis, and the rates from Cairo and Thebes to Missouri, Arkansas and Louisiana were constructed on that basis.

It has been beyond the power of the carriers to construct their rates to or from St. Louis with the idea before them that they must absorb bridge toll in making them applicable to East St. Louis, because the rates in practically all cases have been controlled or fixed by either the State Commission or the Interstate Commerce Commission. The State Commission of Missouri would certainly not approve a request of the carriers to make the rates between St. Louis and points in Missouri sufficiently high to take care of the bridge toll across the river, and in the case of the interstate rates fixed in Docket 9702 the Commission established exactly the same rate for a distance of 250 miles from St. Louis to a point in Arkansas as for a distance of 250 miles from Little Rock, Arkansas, to some other point in Arkansas, and therefore obviously did not take into consideration any inflation of that scale to take care of the Mississippi river crossing. On the contrary, as I have already stated, when they did have a situation where the [fol. 475] river crossing was made necessary they did inflate the scale by the addition either of bridge arbitraries or by an arbitrary extension of the mileage scale.

In the recent decision of the Commission in I. & S. 2247 rates from St. Louis they specifically fixed a mileage scale to be applied from St. Louis, and also provided that rates to and from St. Louis—to and from East St. Louis or other river crossings, should be made by adding the usual arbitraries to that scale.

"Q. Will the carriers be able to avail themselves of those arbitraries?"

"A. We will have the same situation exactly as we have today; that is, certain lines operate to St. Louis through East St. Louis, and cannot charge higher than the rates to St. Louis fixed by that scale, therefore if the lines with the direct service into St. Louis want to handle East St. Louis traffic they will have to meet that competition and apply the St. Louis rate to East St. Louis, or from St. Louis. It is a situation that is forced on us by competitive conditions, and we cannot get away from it to save our lives. We cannot make the rates to St. Louis higher or make them high enough, inflate them enough to give that consideration.

If the Commission should decide this complaint as complainants desire it to be decided, and such lines as the C. & A. should continue to accept business at East St. Louis and pay the bridge toll, the Frisco would take the business at St. Louis and let the east side lines pay the bridge toll even if the C. & A. agreed to accept it at East St. Louis and pay the bridge toll. They would have to carry it across the river somewhere.

The position we take is that these rates from the East to St. Louis were made to be applied to St. Louis; made high enough by adding something, whereas our rates to East St. Louis were not so made because we could not so make them. In spite of that condition, we are compelled to apply our rates to East St. Louis on through traffic, to and from East St. Louis on through traffic, and we are willing to split fifty-fifty; we are willing to apply them eastbound, but we want the other fellow to apply them westbound. We are assuming the burden both ways; we offer to assume a fair share of the burden, but we do not think that we should be compelled to assume it all, and particularly not on basis of the reasons which have been given by the defendants in this case.

]fol. 476] It would seem, therefore, from a careful analysis of all of the facts presented both by the defendants and by me in rebuttal, that the reverse of the situation contended for by these defendants is true—that instead of the rates from St. Louis west having been built with a consideration of the necessity for taking care of the birdge toll and the rates from the East St. Louis having been constructed without that idea in mind, as a matter of fact the construction of the rates from Trunk Line and C. F. A. ter-

ritories to St. Louis have been entirely within the hands of the carriers, and with practically no competitive condition or state or Interstate Commerce Commission interference, to make the rates on the basis they saw fit. The evidence shows that they have inflated the East St. Louis rate above what it would have been had it not been necessary to take St. Louis into consideration. On the contrary, the rates as established by the west side lines from St. Louis and East St. Louis have always been practically controlled by competitive conditions and state and interstate decisions, so that we have not at any time since 1879 been in a position to fix these rates as we think they should be fixed in order to take care of the additional absorption of the bridge toll at East St. Louis.

The statement in the defendants' answer:

"Wherever the west side lines bear the cost of the transfer charges across the river, said west side lines are fully compensated by the amounts received by them for their services."

I think is entirely incorrect, in view of the facts that I have detailed here.

The concluding part of my statement in which I said that the eastern lines increased their rates to St. Louis applies directly to the rates that are made on the combination basis, but the fact must not be overlooked that the divisions which the east side lines receive out of the through rate to the Southwest are predicated on these local rates, while they do not at this time get the full local, they do practically get it.

I have noted with interest the final statements of Mr. Maxwell on the situation, in which he comes out with a [fol. 477] threat that if the situation is changed as requested by the carriers it will divert all traffic from these west side lines at St. Louis to other gateways and other lines. We do not fear that, and all we ask is that the Commission give us justice, and we will take care of the business ourselves. I construed that as a threat. It looked to me like he was trying to scare us off. I do not think he could make good a threat of that kind but he made it.

Now, I have an exhibit which I would like to offer, showing the differentials and arbitraries allowed in dividing,

and the local rates from a few eastern points to St. Louis and East St. Louis.

(The said document was thereupon received in evidence, marked "Complainants' Exhibit No. 76, Witness Nash.")

I have taken four points located in different territories and shown first the differentials over the St. Louis rates used in making through rates to the Southwest, and then the local rate to St. Louis and East St. Louis, and then the arbitrary allowed to East St. Louis in dividing. You will note in Oklahoma I have shown five different towns. That is because the differential is not uniform throughout the entire state. Now, as explained by Mr. Leland, the arbitraries allowed East St. Louis from different points in the different groups would vary. I have made no effort to pick these with any particular idea in mind. Take Indianapolis, for example, and Cincinnati, they are both in Cincinnati territory. The first class rate to Texas points is made a differential of 33 cents over St. Louis. The arbitrary to St. Louis is 60 cents, therefore the carriers west of the river have to shrink 27 cents out of their first class rate, while the lines up to East St. Louis shrink their local rate 17½ cents, our shrinkage being considerably greater than that of the east side lines. Now, the situation is more exaggerated on commodities in many cases than it is on classes. Take canned goods from Indianapolis to the Oklahoma points; the rate is made 10½ cents over St. Louis. The carriers allow 21½ cents to East St. Louis, [fol. 478] therefore it is necessary for the west side lines to shrink the difference between the 10½ and 21½ or 11 cents. The shrinkage made by the east side lines is 5½ cents for East St. Louis.

I think Complainants' Exhibit No. 76 is fairly representative of the rates and divisions between the same territories. I simply picked these particular points because I knew that they were important points, that was why I took them, without ever having seen the figures that would result from that selection. I think that they can be considered fairly representative.

The practice between carriers in the method of interchange—reciprocity in taking care of the switching charges—is in effect at junctions where the rates are on combina-

tions of locals, as well as where the rates are joint through rates, carloads. Where joint through rates apply as a usual proposition, the switching is taken care of by the line bringing the freight into the junction, having it transferred to the connection by the intermediate switching line, where necessary, and paying that switching line out of the proportion it receives up to the junction.

"By Exam. Disque:

"Q. What junction do you speak of in this case, St. Louis or East St. Louis?"

"A. Why, the point of delivery between the east and west side lines in this case is—we think it should be St. Louis on westbound traffic."

"Q. In all of these cases where you speak of divisions being in effect, those divisions provide a certain proportion east and west of a certain junction?"

"A. Yes."

"Q. All the junctions—all the divisions that you have spoken of in this case apply east and west of East St. Louis or east and west of St. Louis."

"A. Well, the divisions in this case usually apply east and west of East St. Louis, but wo do not think that is right."

"Q. You want to change the divisions, then, don't you?"

"Mr. Roberts: No, we want to change the practice."

"Mr. Walker: Let the witness answer."

"Mr. Roberts: I will construe the complaint; the witness will not. We want to change the practice, in that the interchange shall be at St. Louis, Missouri, and not at East St. Louis, Illinois."

[fol. 479] "Exam. Disque: But the witness made the statement about what the practice was at junction points where through rates were in effect.

Mr. Roberts: No, that is not what he said, Mr. Examiner; I want to call your attention to the fact that the practice that we have described is in effect at junctions where rates are made in combination——

Exam. Disque: And at those points where there are divisions in effect, those division sheets specifically provide that the proporotion shall apply east of a certain junction,

what proportion shall apply east of a certain junction, and what proportion shall apply west of a certain junction. Here we have two junctions, St. Louis and East St. Louis, so that the situation is not exactly comparable; I am asking Mr. Nash to explain that.

Mr. Orcutt: As I understand it, at each of those junctions there are arrangements which are mutually satisfactory for switching, both at East St. Louis and St. Louis.

Mr. Roberts: At each of those junctions there is a switching line that performs the intermediate service between the line-haul carriers, just like the Terminal does in St. Louis—East St. Louis. The Terminal Railroad Association performs the switching service between the east and west side lines; they are exactly comparable, except at the other junctions it is the practice——"

Thereupon, at 5:45 o'clock, p. m., September 25, 1925, an adjournment was taken until 9:30 o'clock a. m., of the following day, September 26, 1925.

[fol. 480] St. Louis, Missouri, Sept. 26, 1925—
9:30 o'clock, a. m.

Met pursuant to adjournment.

Robert N. Nash was thereupon recalled as a witness and, having been first duly sworn, testified as follows:

Cross-examination:

I do not recall at this particular time that we have proportional rates in effect from East St. Louis to points in Kansas, except possibly to the extent that they may have been forced by the application of the 55 cent proportional scale to Kansas City, there may be some intermediate territory where that would force this scale from East St. Louis.

To territory within one hundred miles of St. Louis our rates are higher from East St. Louis than the rates from St. Louis, and to some of those points the rate from East St. Louis is as much higher than the rate from St. Louis as the bridge toll. To points outside of that territory the

rates from St. Louis and East St. Louis are the same. That was brought about on account of the competition of the Alton originally; other competitive influences have also borne on that. If we could eliminate all competitive conditions the rates from East St. Louis would be higher than the rates from St. Louis. I am not so sure that that would be true because of the extra service that is performed from East St. Louis, or because of extra expense; conditions have changed very considerably in the last fifteen years. I am not prepared to say today that if those competitive conditions were today removed, that we would immediately insist that all rates between East St. Louis and the West should be made on the bridge toll higher than St. Louis. But it is true as to the one hundred mile zone, in which competition does not enter into the situation at the present time.

I. & S. 2247 involved rates east of the Mississippi river. It involved rates from the territory east of the Mississippi and north of the Ohio to points west of the river. Tech- [fol. 481] nically that is C. F. A. territory. In other words, it involves Chicago.

There is a movement in progress now, which has to a certain extent been carried out, following the Commission's decision in the Indiana to St. Paul and Missouri river cases, to make some readjustments upward, of the rates from the Mississippi river crossings westbound. I personally had nothing to do with the recent application of the western lines for an increase in their rates, and I do not think I was present at any conference prior to the hearing. I do not know whether in that case the west side lines in their request for an increase or an advance in their rates stated to the Commission that they were required to pay the bridge toll across the river from East St. Louis to St. Louis.

"Mr. Hughes: Mr. Examiner the complainants feel that the following statement may aid in clarifying some of the phases of this case which appear now to be the subject of some confusion. There is no traffic whatsoever that is excluded from their prayer. There are some forms of traffic, however, which have individual qualifications; first, coal; coal from Belleville, Illinois, field, and from coal fields whose rates are made differentially over the Belleville field,

and which moves wholly westbound through St. Louis has been the subject of a quite recent arrangement between the east and west side carriers, whereby it was specifically agreed that the through bound coal should be delivered to the west side lines at East St. Louis. As to that traffic, the [fol. 482] west side lines, adhering to the good faith of that arrangement, are willing, if they induce the Commission to enter the order sought here, to revise the arrangement as to the Terminal transfer only, so as to leave the east side and west side lines in their present relative situation. Second, traffic moving between Wisconsin and Illinois, and Missouri river, Kansas and Nebraska, Colorado, Utah, Oklahoma and New Mexico. It has been shown that the east side lines recognize on this traffic the principle of a reciprocal duty to provide interchange facilities here through an allowance for that purpose. This applies to traffic moving on class rates and no other. An order such as prayed for would merely modify the method of applying the principle already thus recognized by imposing the actual settlement for service upon the delivering line, instead of as now making the west side lines in all instances the medium of settlement. Third, transcontinental traffic. There the western connections have been induced by the west side lines to join in assuming the transfer burden at St. Louis, which the east side lines have divested themselves of, hence the west side lines to this extent have relief; they and their western connections seek relief in one direction on transcontinental traffic, as well as on all other traffic.

[fol. 483] F. A. Adams, called as a witness on behalf of complainants, having been first duly sworn, testified as follows:

Direct examination:

I am assistant to the freight traffic manager, C. R. I. & P. Railway, Chicago, Illinois. Primarily I am in charge of divisions in connection with through rates with our connecting lines. That is one of my duties. I have been connected with the freight traffic department of the Rock Island

for nineteen years; during all of that time I have had to do with rates and divisions between connections, and a general line of traffic work.

Mr. Nash dealt with the effect upon the revenues of the lines east in connection with the application of the East St. Louis rate to St. Louis, when the rate was made common at both points, and was increased slightly to take care of the bridge toll in part. His testimony, as I understood it, dealt only with rates that were made on combination of locals, and he pointed out very forcibly that although the rate adjustment itself might be considered as a local St. Louis-East St. Louis proposition, the result was that it was applied on all through traffic by the rates made on the combination of locals. At that time, and to a great extent now the territory affected was Missouri, Missouri river, Kansas, Nebraska, Colorado, Utah, Oklahoma, to which, of course, the volume of the traffic is many, many times greater [fol. 484] than to St. Louis. Although, as I have previously stated, it was a local adjustment to St. Louis and East St. Louis, the eastern lines got the benefit of that advance to all that vast territory, and additionally, and as explained by Mr. Leland, in his testimony yesterday, prior to the 15 per cent advance case, through rates to Texas, Oklahoma, Arkansas and Louisiana were divided by allowing the lines east of East St. Louis their full local rates, so they also received that increase as a division of through rates, to points in the Southwest, and as also explained by Mr. Leland, I want to point out that increase is reflected today in the divisions of the eastern lines, regardless of the fact that such divisions are slightly less than the local rates. Mr. Maxwell in his Exhibit No. 59 dealt in part with the agreement between the eastern and western lines operating through upper Mississippi river crossings, commonly known as the Joint Rate Committee agreement. Of course, Mr. Maxwell is a party to this agreement, and so is the Rock Island Railroad; we have operated under it since its inception, and do so today. I think we are both thoroughly familiar with the intent of the agreement, and how it is applied. I think Mr. Maxwell inadvertently stated that this C. F. A. agreement was an agreement in respect to divisions via East St. Louis. That is not the case. To prove this

fact, I will refer to page 115 of the pamphlet. The object of the agreement is shown there, and it is—it provides as follows:

"Pursuant to an agreement between the Eastern and Western lines for the proper conduct of traffic passing between points west of the Mississippi river and points in what is generally known as the Middle and Western States Territory, the following rules will apply, taking effect August 1, 1889, it being understood that traffic which may have been billed out on and after August 1, 1889, at the established percentage divisions as published by the Western Freight Association prior to August 1, 1889, shall be corrected to that basis.

"First. Rates shall be made between points in the following described Middle and Western States Territory and East Mississippi river points north of East St. Louis to and including Dubuque, Iowa, on traffic destined to or com- [fol. 485] ing from points on or south of the C. St. P. & K. C. Railroad, Dubuque to Waterloo, Iowa, and the Illinois Central Railroad, Waterloo, Iowa, to Sioux City, Iowa, inclusive, or west thereof via such points, on the basis of the rates applicable to or from East St. Louis, as the case may be, such rates to be divided east and west of the junction points of eastern and western lines in the manner as hereinafter shown in the respective groups, provided that this shall not include Transcontinental traffic.

"Second. The percentage divisions of the through rates to and from the Middle and Western States Territory, as hereinafter set forth, shall be of the gross through rates between the initial points in said territory and East St. Louis, that is to say, the gross through rates shall be divided east and west of the junction points as recited, in accordance with the divisions agreed upon."

Before I proceed with the reading of any more of that, I want also to add that one of the primary objects of this agreement which will probably be gathered from what I read here was to equalize through rates via upper and lower crossings on traffic between points in the east and points on the west of the Mississippi river. We applied the East St. Louis rate proportional to the upper crossings. There was no division to be made by East St. Louis; the rate divided itself, because it divided as made.

"Fourth. The foregoing arrangement is provided for the express purpose of establishing rates based upon the line of the Mississippi river and points in the territory of the Central Traffic Association, at the same rates as between the latter points and East St. Louis in both directions, except in cases otherwise provided. It is, therefore, not permissible to use other basing points, as for instance, Peoria, Chicago, and other junctions with eastern roads, by the application of locals to and from those points, when, owing to the disparities of classification or otherwise, such combinations of rates are lower than the basis of this tariff."

Of course, that agreement was, as the exhibit shows, made in 1889, and today we of necessity have to under the Act [fol. 486] recognize the lowest combination via the route of movement, where there are no through rates. If there is a through rate, we have to revise it to the combination basis.

Now, following this agreement divisions were agreed to between the eastern and western lines, called the Joint Rate Committee percentages, and they applied only via the crossings north of East St. Louis, via Chicago, Bloomington, Decatur, and so forth, so I do not agree with Mr. Maxwell's statement that this Joint Rate Committee agreement divides any rates via East St. Louis. I base that statement upon the text of the agreement and its actual application as applied everyday.

Mr. Maxwell in his testimony the other day also made reference to the, in his opinion, unfair request of the western lines for the eastern lines to absorb the St. Louis-East St. Louis bridge toll under any circumstances. I want to read from his Exhibit No. 62 page No. 11 wherein he quotes from the Commission's decision in the Warnock Company case, 21 I. C. C. 546. It reads:

"The local rate to the upper crossings is 69 cents from Pittsburgh, 55 cents from Saginaw, and 52 cents from Indianapolis. The local rates of these points to St. Louis are, respectively, 56-1/2, 46 and 38 cents. The latter rates are therefore the proportional rates from these points to the Mississippi river on traffic moving through the upper cross-

ings to any point of destination beyond the river. These local and proportional rates to the upper crossings from the points mentioned, and the local and proportional rates from other points east of the Indiana-Illinois State line are established on a basis that fairly expresses the differences in the length of the respective hauls to the river, and therefore, in the cost and value of the service."

That had reference to the rates to St. Louis.

Reverting again to Mr. Maxwell's testimony, he gave some historical facts, which in the main were correct, but he did not quite complete the picture in respect to the effect upon the western lines when the C. & A. Railroad built their railroad through Louisiana and East Louisiana, down the east bank of the river to St. Louis. He said the western lines did at that time meet the competition of the C. & A. [fol. 487] and agreed to absorb the transfer charges across the Mississippi river. It was voluntary upon the part of the western lines, of course, but it was something that they could not escape. In 1877, and for quite a long time thereafter the routing of freight was largely controlled by the railroads, and not by the shippers. Had the western lines not met the C. & A. situation at East St. Louis, it would have simply meant that they would have been deprived of a tremendous volume of traffic which the eastern carriers had. That is not hearsay, that is history.

Again referring to Mr. Maxwell's Exhibit No. 59, on page 106, part of the Joint Rate Commission's agreement—Joint Rate Committee Agreement, Paragraph C, it is specifically stipulated in that agreement that "To prevent irregularities, any lines west of the Mississippi river departing from the rates shown in the official list shall, upon proper evidence of the fact, be subject on its through traffic to establish tariff rates east of its point of junction with the eastern line, and no line party to the Agreement shall issue bills of lading via said line on any traffic covered by this Agreement; and in like manner any line east of the Mississippi river departing from the established rates shall, upon proper evidence of the fact, be subject on its through traffic to the established tariff rates west of its junction with the western lines, and no line party to this agreement shall issue bills of lading via said line on any traffic covered by

this agreement," clearly indicating that what I have stated is a fact, that the railroads routed the traffic in those days, and not the shippers.

Mr. Maxwell also introduced Exhibit No. 60, a letter from Mr. E. B. Boyd, dated July 20, 1922, addressed to Chairman Morris of the Central Freight Association lines, with respect to rates on petroleum oil to C. F. A. territory via Chicago, where the C. F. A. lines to get the business from the lines at Chicago refused to allow the lines at Chicago the divisions that they were entitled to, to the C. F. A. line. It was on petroleum oil. That is what occasioned this letter from Mr. Boyd. I state that of my personal knowledge.

Mr. Maxwell also stated that in his opinion should the eastern lines be required to absorb the bridge tolls in either [fol. 488] direction, on traffic to and from points in the West, it would have a very bad effect upon the East St. Louis gateway, in that it would deprive them of traffic which is handled that way at the present time. I hold a contrary view, and all the west side lines do, I think. In the first place, take Detroit traffic going to a point say in Texas. If that shipment moves through Chicago, and thence via the lines leading from the upper crossings, the C. F. A. lines get 85 per cent of the proportion to the Mississippi river; when it moves direct via East St. Louis, they get one hundred per cent of the proportional east of East St. Louis. If the bridge toll is deducted therefrom the difference on any rate that you can figure, over and above what they received to Chicago, will certainly compensate them for transporting the traffic the additional distance to East St. Louis. On southbound business the divisions are fifty-fifty via Chicago and the upper crossings; you have got fifty per cent to play with. On Pittsburgh business it is 28 per cent that you have additional revenue, for the slight additional hauls. Another thing is this, that the shipper routes the business, and they are not interested in your divisions. I do not anticipate that a pound of business will be taken away from the East St. Louis gateway; and furthermore, I want to say that it is our position in this case that should you absorb the bridge tolls, it would not divert from the western lines any traffic to amount to anything. That point has been raised, and I want to make it clear that that is the

position of the Rock Island; we do not fear that result at all.

Mr. Maxwell also dealt with the recent readjustment of the divisions on transcontinental traffic, making specific reference to the increase allowed the western trunk lines east of the Mississippi river. It is true that effective July 1, 1925, the trunk lines were accorded slightly increased proportions on transcontinental traffic, but so that the wrong impression may not be left in the record as to the measure of these increases, which might lead the Examiner or some one to believe that it meant a tremendous additional revenue to the western trunk lines via the Missouri river crossings, I want to point out that the new divisions effec- [fol. 489] tive July 1, 1925, from Kansas City on transcontinental traffic via East St. Louis or St. Louis is 12.1 per cent, distance 278 miles. The same divisions apply via Council Bluffs to East St. Louis, 411 miles, where the lines east, for comparable distances, Chicago to Detroit, for example, 272 miles, get 13 per cent; Chicago to Pittsburgh, 468 miles, get 16½ per cent; so the proportions on transcontinental traffic today accruing to C. F. A. lines are not only higher in measure or percentages, but you get more in cents per one hundred pounds on a great volume of the traffic, because the rates are higher.

Now, Mr. Maxwell also left the impression on my mind, and on others, that on business between Illinois and Wisconsin and what is commonly known as Trans-Missouri territory, including the Missouri river, that the transfer charges at St. Louis and East St. Louis—he referred to 8 cents, which of course had reference to less than carload business—was paid by the eastern lines to the western lines, who in turn pay it to the transfer company. That would leave the inference that the eastern lines absorb the bridge tolls, and we pay it to the transfer company. The fact of the matter is, on class traffic only, the divisions between Chicago and points in Illinois and also Wisconsin, to the western territory I have described here base upon allowing the lines north of East St. Louis their full proportion on the rate to Kansas City, first deducting the Mississippi river transfer charges, so the result is that the lines west of the Mississippi river pay 52½ per cent of the transfer

charges, and the lines east of the Mississippi river pay 47½ per cent of the transfer charge. On commodities the rates were not made—I mean the divisions were not made in this way; they were by agreement, and the western lines absorb the transfer.

Mr. Maxwell also made the statement in reference to the pending case between the western trunk lines and the southwestern lines, including Oklahoma, that he had no doubt that Mr. Johnson of the Rock Island would increase the divisions north of East St. Louis on that traffic to Chicago, Illinois and Wisconsin. I want to correct that impression. [fol. 490] The Rock Island has no idea at the present time of increasing the proportion north of East St. Louis on trans-Missouri traffic, for the very good reason, as I just pointed out, that the north lines, the lines north of East St. Louis are getting their full proportion of the rate to Kansas City, fairly sharing in the bridge toll deduction.

Mr. De Camp's testimony dealt with the history of rates and divisions on coal from Belleville and southern Illinois districts. Mr. De Camp correctly stated the history except in one slight respect. He failed to state that when the rates on coal from the Belleville district to points west, take Kansas City, for example, were reduced from the combination over East St. Louis, using the proportional rate east and the local rate west, to the East St. Louis rate from Belleville district, that in dividing the reduced through rate, the eastern lines continued to receive their 25 cent proportional rate, thereby forcing all the shrinkage on the western lines, including the payment of the bridge toll.

Now, referring to Mr. Furry's testimony, he dealt with the payment of bridge tolls on traffic from New Orleans and points in that territory to Kansas City via East St. Louis. His statements were correct; the lines west of East St. Louis absorb the bridge toll out of their division of forty per cent west of East St. Louis, but that does not paint the entire picture in connection with that traffic. There are connections on the west side, the Missouri Pacific Railroad, for example, that have lines all the way from St. Louis to New Orleans, on the west side of the river. There is the Frisco, which has a route from St. Louis to New Orleans, on the east side of the river, crossing the Mississippi river

at Memphis again. On that traffic the western lines pay no bridge tolls. They divide the rate the same as they do with the lines east of the Mississippi river, on basis of 60 per cent south and 40 per cent west. Involved in this traffic which may move westbound is a great movement of grain from Kansas City and western territory to New Orleans via St. Louis and East St. Louis. It is well to say right here that the rates on grain to New Orleans for export [fol. 491] from the Missouri river are based on the combination of proportional rates from Omaha, and the rates from Kansas City one cent less. The proportional rates from Omaha are the same to St. Louis and East St. Louis. The eastern lines publish from St. Louis and East St. Louis the same proportional rates, namely, 18 cents per one hundred pounds, but on this grain traffic they require when moving via East St. Louis that the western line deliver the traffic over to them on the east side of the river, although the western lines can and do route some of this traffic via the west side lines at St. Louis, and avoid the payment of bridge tolls. This will indicate, I think, to Mr. Maxwell, that his uniform division via all routes through the same general terminal is not governing as in respect to the movement of that traffic, because most of this grain traffic goes down the east side of the river, over the Illinois Central Railroad.

I am familiar with the P. P. U. case, but I was not associated with the trial of the case. I understand about the divisions through Peoria that were dealt with in that case. The divisions of through rates through Peoria provided for percentages north and south of Peoria, or east and west, as the case may be, a certain per cent north of Peoria, and a certain per cent south. The opinion of the Commission was rendered six months or a year ago, but the case has been reopened, reheard and retired on the matters decided in the report as I understand. It is still open and undecided.

I know of the testimony of Mr. Stanage in this case, as to the universal practice of line haul carriers bearing the reciprocal or switching charges when the interchange is made through the medium of a switching line. I could speak very advisedly as to the practice of the Rock Island, between the Rock Island and its connections, The deliver-

ing line makes delivery, whether it is moving on combination rates or joint through rates. I can also speak advisedly as to my general information in regard to the practice all over the country, that wherever I have investigated, which has been at different times in the past, I find that that is a general practice every place, whether it is under joint through rates or under combinations of locals.

[fol. 492] "By Exam. Disque:

"Q. Where you have two junctions, and your division sheets provide divisions east of one of those junctions, do you think the divisions ought to be changed, in a case of this kind, so as to make those divisions in effect read east of the other junction?"

"A. Well, I think, Mr. Examiner, as you ask for my opinion, that if, as in this case, for example, the practice is shown to be improper, it ought to be changed regardless of how the division sheet might read today."

"Q. What is improper about the practice, in your mind?"

"A. That the west side lines pay the bridge tolls in either direction on the traffic.

"Q. On joint rates, you have agreed to it, and your division sheets provide for that.

"A. We are seeking under this complaint here to change that practice.

Cross-examination:

I did not mean to leave the impression that at the present time the east side lines' proportion on the coal rates up to East St. Louis are the same as their proportional rates up to East St. Louis. I really do not know what your proportion rate is today to East St. Louis. If the proportional rate is 78½ cents, the east side lines in publishing through rates to points in the West receive considerably less than their proportional rates up to East St. Louis, and the west side lines receive proportions less than their rate from St. Louis to the destination. I do not understand that the east side lines' proportional rate up to East St. Louis is the same as their local rate.

I spoke in my testimony about Mr. Sidney Johnson. I spoke for Mr. Sidney Johnson. I have a great deal of knowledge of what Mr. Johnson was doing about divisions.

I do not think there is a man that had as much to do with the trans-continental division case and its associated cases, or any more, than I did. I know what was in that agreement, and I know every offer that has been made by the Rock Island railroad. I know that the Rock Island has never offered an increase north of East St. Louis on any traffic. Mr. Johnson has never offered any increase on Texas or Louisiana or Arkansas.

Our line, the Rock Island railroad, bought the St. Louis, Kansas City and Colorado and then came into St. Louis. I think it was something like 1902 or 1903, somewhere around there. We then met the competition that was afforded by the east side lines, by the C. & A. interests and [fol. 493] the east side. I did not speak of the slight additional haul of the C. F. A. lines from Pittsburgh west, as compared with that from South Bend west. I said for your additional haul on traffic from South Bend you got fifty per cent; that for your additional haul on traffic from Pittsburgh you got 28 per cent, for your additional hauls. We are much obliged to the shippers when they route it via Chicago.

Mr. Nash explained in full detail why we made our rates from East St. Louis higher than the rates from St. Louis to the territory immediately west of St. Louis, and I adopt his tesimony in that respect.

There has been some evidence on both sides in regard to the absorption of bridge tolls on transcontinental traffic. I think that the record is somewhat misleading as to how that is done. I want to explain that on traffic between transcontinental territory and points east of the Mississippi river, C. F. A. and Trunk Line territory, there is no bridge deduction before arriving at the proportion for the lines east of East St. Louis; that is entirely borne by the lines west.

We conceded when we came into St. Louis in 1903 that our railroad had full knowledge of this situation. I do not know how we felt in 1903; all I know is what we did.

B. H. Stanage was thereupon recalled as a witness on behalf of the complainants and, having been previously sworn, testified as follows:

Direct examination:

At Dubuque, Iowa, the bridge at that point is owned by the Dunleith & Dubuque Bridge Company. The entire Capital stock, however, is controlled by the Illinois Central Railroad. That bridge is also used under lease by the Chicago & Great Western and the C. B. & Q. The C. B. & Q. has a stub line into Dubuque. That is, they do not go further west from Dubuque. The lease of the Chicago Great Western gives them no operating rights at East Dubuque. At Dubuque there is the Burlington and the Illinois Central on the east bank; the Illinois Central, C. M. & St. P. and Burlington on the west bank. The traffic is not handled across the river by any separate transfer [fol. 494] trains, or by a separate bridge company; the traffic is handled by road haul crews of the lines serving Dubuque, except that the Burlington handles some trains from East Dubuque to Dubuque with switching crews, because as I stated the end of their line there is at Dubuque. At Savanna, Illinois, the C. B. & Q., and the C. M. & St. P. are the only lines that serve that point. The main line of the C. M. & St. P. from Chicago west crosses the Mississippi river at Savanna, Illinois-Sabula, Iowa. The bridge is owned by the C. M. & St. P. and not used by any other company. At Clinton, Iowa, the bridge is owned by the C. & N. W. Railway. The C. & N. W. main line from Chicago west to the Missouri river crosses the Mississippi river at Clinton, Iowa. The C. B. & Q. under lease operates its trains over the C. & N. W. bridge. It, however, has no rights at East Clinton, Iowa, or East Clinton, Illinois, I should say, a point opposite Clinton, Iowa, on the east side of the river. The C. & N. W. is the only line serving that point. On the west side, at Clinton, Iowa, are located the C. & N. W., C. B. & Q., C. M. & St. P., C. R. I. & P., and the Clinton, Davenport and Muscatine, an electric line. There is no independent or separate bridge company handling traffic across the Mississippi river between East Clinton, Illinois, and Clinton, Iowa. Road haul trains of the C. & N. W. and C. B. & Q. operate over the bridge. At Davenport, Iowa, there are two bridges, one a government bridge, which is leased to the Rock Island, and the other a bridge owned by the Davenport, Rock Island & Northwestern Railway Company, which is jointly

owned by the C. B. & Q. and C. M. & St. P. Trains of the C. B. & Q. and C. M. & St. P. operate over this bridge. The Davenport, Rock Island & Northwestern Railway does not handle traffic over the bridge in transfer trains. The Rock Island operates its road haul trains over the government bridge. On the east bank of the river, opposite Davenport, Iowa, is Rock Island, Illinois, which is served by the C. B. & Q., Chicago, Rock Island & Pacific, C. M. & St. P. and the Rock Island & Southern. The Rock Island & Southern has no rails on the west side of the river at Davenport, Iowa, that point being served by the C. M. & St. P., [fol. 495] the C. B. & Q. and the Rock Island. At Keithsburg, Illinois, the bridge over the Mississippi river is owned and operated by the M. & St. L. Railway. They handle their freight across this bridge with the road haul crews. There is only one line at West Keithsburg, Iowa, that is the M. & St. L. On the east bank there are just two lines, the M. & St. L. and the C. B. & Q. At Burlington, Iowa, the bridge over the Mississippi river is owned by the C. B. & Q. They operate over it with their road haul crews and trains. The T. P. & W. also operates over this Burlington bridge, using the facilities of the Burlington as joint facilities. There is no separate bridge or terminal company handles traffic over this bridge.

"Q. Between line haul carriers?"

"A. Between line haul carriers. On the east side, at East Burlington, Illinois, are the C. B. & Q., the T. P. & W., on the west side the C. B. & Q. the T. P. & W., the Chicago, Rock Island & Pacific. The T. P. & W. has a stub line into that point; that is, they do not go further west."

At Fort Madison, Iowa, the Mississippi river is crossed by a bridge owned by the Santa Fe. The Santa Fe is the only line at that point, the only east and west line at that point. They operate over the bridge with their own road haul crews. There is no separate bridge or terminal company handling traffic between the east and the west bank. The Santa Fe is the only line on the east bank, while the Santa Fe and the Burlington operate on the west bank, that is, the Burlington's north and south line, East St. Louis and St. Louis to Minneapolis, the Twin Cities. At Keokuk, Iowa, the bridge is owned by the Keo-

kuk & Hannibal Bridge Company, and is used by the Wabash and the T. P. & W. Traffic over this bridge is handled by both lines with their road haul crews, that is, there is no separate bridge or terminal company handling traffic between the east and the west banks. On the east bank, at Hamilton, Illinois, are located the Wabash and the T. P. & W.; the Wabash using certain tracks of the T. P. & W. On the west bank at Keokuk are located the Wabash, the T. P. & W., the C. B. & Q., and the Rock Island. At that point there is no terminal company operating be- [fol. 496] tween the east and west banks.

At Quincy, Illinois, the bridge is owned by the C. B. & Q. There is no separate terminal company operating over this bridge between the east and west banks. On the Illinois side is located the Wabash and the Burlington, and on the west side the Burlington, and the Q. O. & K. C., part of the Burlington.

At Hannibal, Missouri, the bridge is owned by the Hannibal Bridge & Tunnel Company, which is operated by the Wabash Railway Company under lease. It extends between Hannibal, Missouri, and East Hannibal, Illinois. On the east bank is the Wabash Railroad and no other line, and on the west bank the C. B. & Q., the Wabash, and the St. Louis and Hannibal. There is no separate bridge or transfer company or terminal company operating on either bank of the river, or any transriver service. At Louisiana, Missouri, the bridge across the Mississippi river is owned by the C. & A. It is also used, under lease, by the C. B. & Q. for certain branch lines service, on the Burlington branch just north of East Louisiana, and their main line on the west bank of the river. Between Louisiana and East Louisiana, Illinois, there is no separate bridge or terminal company; traffic across there is handled by road haul trains, by both lines.

I have taken all the Mississippi river crossings north of St. Louis, and have shown to the Commission that there is no transfer or switching line operating between the line haul carriers on one side of the river and the other. At all of those river crossings the carriers serving those river crossings do not publish and file with the Interstate Commerce Commission any tariffs naming separate bridge tolls between the east and west banks. Further at none of

those northern crossings, what we term the upper Mississippi river crossings, is there a meeting of the east and west side lines like is the case at the East St. Louis-St. Louis crossing. I mean there are no eastern carriers such as serve East St. Louis that serve those upper river crossings, where they meet with their rails the rails of the western lines operating west from either the east bank or the [fol. 497] west bank at those upper river crossings.

At Thebes, Illinois, which is the first crossing south of St. Louis, there is a ferry between Kellogg, Illinois, and Little Rock, Missouri, owned and operated by the Missouri-Illinois Railway, but there is no line other than the Missouri-Illinois on the east bank of the river, and this ferry is operated by the Missouri-Illinois in the transfer of their own traffic between their east and west side lines. They do connect with the Frisco, St. Louis to Memphis, line at St. Genevieve, on the west bank of the river.

At Thebes, Illinois, is the first bridge south of St. Louis. There is a bridge owned by the Missouri Pacific, Cotton Belt, Illinois Central and C. & E. I. through a subsidiary corporation. That bridge extends from Thebes, Illinois, on the east bank, to Illmo, Missouri, on the west bank. There is no interchange of business with any other western line at Illmo, but there is at a point about eight miles further west, Rock View, Missouri, where the tracks of the Missouri Pacific and Cotton Belt, the Cotton Belt using Missouri Pacific tracks under lease, connects with the Frisco, St. Louis to Memphis line. The C. & E. I. use the portion of the Frisco St. Louis to Memphis line from Rock View, Missouri, to Chaffee, Missouri, where a joint yard of the C. & E. I. and Frisco is maintained.

At Memphis there are two bridges spanning the Mississippi river, one owned by the Kansas City & Memphis Railway & Bridge Company, the stock of which is owned by the Kansas City, Fort Scott & Memphis, which is a subsidiary of the Frisco System. The other bridge is owned by the Cotton Belt, Rock Island, Missouri Pacific, through a subsidiary corporation. On the west bank opposite Memphis, Bridge Junction, Arkansas, are located the Frisco, Rock Island, Missouri Pacific, and Cotton Belt. On the east side of the river, at Memphis, Tennessee, the C. R. I. & P., the Missouri Pacific, Illinois Central, Y. & M. V., St.

Louis-Southwestern, N. C. & St. L., L. & N., Southern Railway, M. & O. Traffic over these two bridges is handled by road haul crews, either over the Frisco Bridge by the [fol. 498] Frisco, or over the Cotton Belt, Rock Island, Missouri Pacific joint bridge by either of the lines mentioned. There is no separate bridge or terminal company operating its own power between Memphis, Tennessee, on the east bank, and Bridge Junction, Arkansas, on the west. There are no bridges across the Mississippi river south of Memphis, Tennessee. At Helena, Arkansas, the Y. & M. V. operates ferry service between Trotter's Point, Mississippi, which is merely the ferry landing on the east bank of the Mississippi, and Helena, Arkansas, on the west bank of the river. The Y. & M. V. is the only line at Trotter's Point, where on the west bank at Helena are located the M. & N. A., and Missouri Pacific, Missouri & North Arkansas. There is no bridge or terminal company operating between the east and west bank, across the river, in switching service, or any other kind of service.

Vicksburg, Mississippi, is the next railroad crossing. There is a ferry service owned by the Louisiana & Mississippi Railroad Transfer Company, which is jointly owned by the V. S. & P. and A. & V. Railroads. This transfer service is between Vicksburg, Mississippi, on the east bank, and Delta Point, Louisiana, on the west bank. At Delta Point there is only one railroad serving that point, namely, the V. S. & P. on the east bank the Y. & M. V. and the A. & V. This ferry is operated by the A. & V. There is no separate ferry or terminal company operating between the east and west banks.

Natchez, Mississippi, is the next railroad crossing down the river. At Natchez, Mississippi, and Vidalia, Louisiana, a ferry service is operated between Natchez and Vidalia, called the Natchez, Mississippi & Louisiana Ferry Company, which is owned by the Missouri Pacific. This ferry service is operated by the five lines serving both sides of the river, namely, the Y. & M. V., Mississippi Central, Natchez Southern, on the east bank, and the L. & A. and Missouri Pacific on the west bank. The charge is prorated between the different interests, based upon the method of handling. Some of them divide the bridge or ferry service in the middle of the river, on a basis of fifty-fifty; others divide it on

[fol. 499] the basis of the west side line making delivery to the east bank, and the east side line making delivery to the west bank. In all cases it is a reciprocal burden that they share.

The next crossing down the river is Baton Rouge. There is a crossing between Natchez and Baton Rouge, owned and operated by the L. R. & N. but that is local to that line, located at Anchorage, Louisiana.

The next river crossing is between Baton Rouge, Louisiana, and Anchorage, Louisiana, the latter point being on the west side of the river. The ferry at this point is owned and operated by the Gulf Coast Lines. On the west side are located the Southern Pacific and the Gulf Coast Lines. The Southern Pacific use the terminal facilities of the Gulf Coast Lines. On the east bank are located the Y. & M. V., the L. R. & N., the Southern Pacific and the Gulf Coast Lines. There is no separate or independent ferry or terminal company operating between east and west banks at this point.

New Orleans, Louisiana, is the next railroad crossing south of Baton Rouge. At New Orleans the Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans owns and operates a ferry service between the east and west sides of the river. Between Gouldsboro and New Orleans, Louisiana. This terminal railroad company is owned jointly by the Texas & Pacific and Missouri Pacific Railroad companies. Freight of the T. & P. and Missouri Pacific is transferred across the Mississippi river by this ferry. The Southern Pacific Company, between New Orleans on the east bank and Algiers on the west bank, and they also have a ferry between New Orleans and Avondale, but that is used principally for passenger traffic. These two companies are the only companies operating ferry service across the Mississippi river at New Orleans, I mean by that for railroad service; I do not refer to local ferries for vehicles. There are no independent ferry companies operating between New Orleans and the west bank. On the west bank of the river at New Orleans are located the T. & P., Missouri Pacific, New Orleans & Lower Coast, while on the New [fol. 500] Orleans side are located the Southern Pacific, Gulf Coast Lines, T. & P., Southern Railroad, Louisiana

Southern, Mississippi-Warrior River Service, Missouri Pacific, L. R. & N., Y. & M. V., Illinois Central, and L. & N.

I have now covered each railway crossing from Canada to the Gulf, across the Mississippi river. At the river crossings, Thebes and south, the Interstate Commerce Commission in the ferry tolls case, Docket 12478, reported in 93 I. C. C., authorized the carriers to apply fixed ferry tolls for the transriver service.

At Cairo, Illinois, the bridge across the Ohio river is owned by the Illinois Central. The M. & O. operate over this bridge under contract. On the south bank of the river are located the Mobile and Ohio and the Illinois Central; on the north bank the Illinois Central, Mobile & Ohio, Missouri Pacific, Big Four, and the Mississippi-Warrior Service. There is no separate bridge or terminal company operating between Cairo, Illinois, and East Cairo, Kentucky. At Paducah, Kentucky, there is a bridge across the Ohio river owned by the Paducah—I might state that at Cairo the road haul crews of both the M. & O. and the Illinois Central handle their traffic between the north and south bank. There is no switching service between the line haul carriers there.

At Paducah, the bridge across the Ohio river is owned by the Paducah & Illinois Railroad Company, a subsidiary of the C. B. & Q., N. C. & St. L., and the Illinois Central. The C. B. & Q. and Illinois Central operate over this bridge between Metropolis, Illinois, on the north bank of the Ohio river, and Paducah, Kentucky, on the south bank. There is no separate bridge or terminal company operating between Metropolis, Illinois, and Paducah, Kentucky.

At Evansville, Indiana, the bridge is owned by the L. & N. Railroad. It is also used under contract by the Illinois Central, which uses rails and bridge of the L. & N. from Henderson, Kentucky, to Evansville, Indiana. On the south bank of the river is the L. & N. and the Illinois Central, under trackage arrangements north of Henderson; while on the north bank is located the Big Four, the C. & E. I., the E. I. & T. H., the Southern Railway, the Illinois Central, [fol. 501] L. & N. The traffic over this bridge is handled in road haul service. There is no separate bridge or terminal company operating between Henderson, Kentucky, and Evansville, Indiana.

The traffic between Metropolis, Illinois, and Paducah, Kentucky, is handled in road haul service.

At Louisville, Kentucky, the bridge across the Ohio river is owned by the Kentucky & Indiana Terminal Railroad Company, which is jointly owned by the Southern Railway, the B. & O. and the Monon. That bridge spans the river between Louisville and New Albany. There is also a bridge across the river at that point owned and operated by the Pennsylvania Company; between Louisville and Jeffersonville a bridge owned by the Big Four; the Big Four, however, also uses the Pennsylvania bridge between Louisville and New Albany. Their bridge between Louisville and Jeffersonville has certain tonnage restrictions. At Louisville, Kentucky, there is no separate bridge or terminal company handling freight between Jeffersonville and New Albany on the north bank and Louisville on the south bank. The trains of the B. & O. and Southern and Monon operate over the K. & I. bridge into or out of Louisville, Kentucky. The same is true of the Pennsylvania, operating through New Albany to Louisville, also true of the Big Four, operating into and out of Louisville, using either the bridge between Jeffersonville and Louisville, or between New Albany and Louisville. In the latter instance I refer to the Pennsylvania bridge. On the Louisville, Kentucky, side are located the Southern Railway, the L. & N., the C. & O., the Big Four, the Pennsylvania, the Monon, the Illinois Central, the B. & O. S. W., the L. H. & St. L. On the New Albany, the Monon, Southern, B. & O. S. W. On the Jeffersonville, Indiana, side, the Pennsylvania, B. & O., and Big Four. Just a minute ago, I think, I might have inadvertently mentioned the Pennsylvania in New Albany, instead of Jeffersonville. Both of those two towns adjoin, but I mean Jeffersonville, Indiana. At Cincinnati, Ohio, there are three bridges. Traffic is handled in road haul service, no separate transfer company. The L. & N. operates a bridge, also the C. & O., L. & N., and a third bridge owned by the Southern Railway. At Cincinnati the C. & O. [fol. 502] operates certain trains over the L. & N., proper, bridge. I do not mean the joint L. & N. and C. & O. bridge. The Pennsylvania also operates over the two, that is, a joint arrangement, in the interchange of freight between the two. Now, where I mentioned about road haul service,

I referred to traffic for Cincinnati proper, because there is a heavy interchange across the river between Cincinnati and Covington, Newport, Latonia, that is handled by switching crews. There is no separate bridge or terminal company operating between the north and the south side lines at Cincinnati. The information that I just mentioned about the L. & N. was secured from the agent of the L. & N. at Cincinnati, Mr. Alex Anderson. He stated that the C. & O. uses the L. & N. bridge between Newport, Kentucky, and Cincinnati, Ohio. I qualified that by stating in the interchange of certain traffic the C. & O. use that bridge of the L. & N. because the C. & O. had boundless power at certain times of the year, and the L. & N. preferred that the C. & O. run over the bridge with their own power and take certain of their traffic to Cincinnati rather than for the L. & N. to use their power and act as an intermediate carrier, and they have an arrangement to charge the C. & O. for the use of the bridge and give them credit for having hauled the traffic themselves.

[fol. 503] "By Mr. Roberts:

"Q. Of course, you testified as to the universal practice all over the United States, but I want to ask you this question: After you left the stand the other day, I asked you to ascertain whether that practice applies where the rates break on the particular junction, or whether the traffic is handled through that junction under joint through rates; what do you say as to the universality of the practice in both kinds of situations?

A. Dealing with carload traffic, it is the practice for the delivering line to make delivery of its freight to its connections, using the service of the intermediate carrier. It assumes the expense incident to that intermediate service. I have references to a good many tariffs that I could read into the record if they so desire. The practice is reversed at East St. Louis, the receiving line takes care of it. I am talking exclusively of east of the Mississippi river there."

On less-than-carload traffic an independent dray company [fol. 504] is used, and the service of that, inbound freight, the service is assessed and collected from the consignee.

That is, where the combination of locals applies, and there is a space between the depots. Where joint through rates are in effect it is the practice for the delivering line to make the delivery, the same as on carload traffic. The practice is the same regardless of how the rate is made on carload traffic. On less than carload, the practice I outlined referred to instances where joint through rates were in effect. Where combination of locals applied, in connection with the handling of less than carload traffic, it is the custom to assess the intermediate expense paid to the dray company for transporting the freight between the carriers' depots at the junction point against the shipment and collecting it from the consignee.

Cross-examination:

I have a memorandum on how the class rates are made to take care of the service of handling across the bridge at Louisville in road haul service, but I did not bring it here. Possibly a proportional class rate is made to apply, and added to the rate to cover the bridge service from Louisville to New Albany, but I was dealing with the physical handling of the freight. In East St. Louis there is an individual switching charge of the Terminal Company for switching only, where they act as intermediate carrier between two roads.

Where the service of an intermediate line is used, either the Terminal Railroad Association or the Alton & Southern, between, we will say, the north and south side lines at East St. Louis, or between the directly east lines and the south lines on the one hand, or the directly eastern lines and the northern lines on the other hand, it is the universal practice in the East St. Louis district for the receiving line to assume the expense of that intermediate service. When through traffic goes across the river the eastern lines do not participate reciprocally in the expense of that interchange by the transfer companies of the Terminal. The western lines are forced to absorb the entire expense for that.

[fol. 505] H. W. PRESS was thereupon recalled as a witness on behalf of complainants and, having been previously sworn, testified as follows:

Direct examination:

Exhibit No. 77 is a statement showing for the year 1924 railway operating revenues, net railway operating revenue, net ton miles per mile of road, for the west side and east side railroads involved in this case, that is to say, the roads centering at St. Louis and East St. Louis. The figures really speak for themselves and require no explanation, except that I desire to call attention to the weighted average for the two groups of roads. The figures are correct and truthful.

(Thereupon said document was received in evidence, marked "Complainants' Exhibit No. 77, Witness Press.")

The weighted average for the east side railroads, as applying to railway operating revenue, as will be seen, amounts to $32,593 per mile of road, as compared with the west side railroads, $16,900. Net railway operating revenue per mile of road shows for the east side railroads $4,944, for the west side roads $2,826. Net ton miles per mile of road, or density, shows for the east side roads 2,565,150, for the west side roads 1,202,364. The source of information is stated at the bottom of the exhibit.

Cross-examination:

The miles of road operated shown on that statement does not differentiate between single and double track for the eastern carriers, so that in the comparison between the Pennsylvania lines, for instance, the net railway operating income per mile of road indicates net railway operating income per mile, whether a single, or double, or four track line.

In preparing these figures, and getting this small excerpt, or summary, I did not examine the entire financial showing of the Chicago & Eastern Illinois for the year 1924. I did not examine the entire figures. I do not know that it is a fact that the Chicago & Eastern Illinois Railway Company, during the year 1924, failed to earn its fixed charges by several hundred thousand dollars. I know nothing about

the final surplus of the C. & E. I. for the year 1924. Whether [fol. 506] it was a final deficit or surplus, I do not know. I was not interested in that part. I could not state positively at this time that the C. & E. I. is being operated by receivers. I do not know whether it is true or not.

The figures would have been different had I made comparison in miles of track operated rather than miles of road.

(Mr. Roberts for the complainants stated he wanted to offer in evidence the annual report of the Terminal Railroad Association and its subsidiaries to the Interstate Commerce Commission for the year 1924, and asked leave to file it within ten days after the hearing, for the purpose to bring Mr. Stith's figures up to date; it shows the mileage and engines they have, and so forth. Permission was granted, there being no objection.)

B. H. Stanage was thereupon recalled as a witness on behalf of complainants and, having been previously sworn, testified as follows:

Direct examination:

The charge of the transfer companies for hauling through traffic between the east and west side lines, between St. Louis and East St. Louis, carloads, 4 cents per hundred; less than carload freight $1.96 per net ton.

(Counsel for complainants were given permission, in the absence of objection, to file within ten days a statement showing the tolls of the Terminal Railroad Association and its subsidiaries for the service it performs between the east and west side lines on through traffic at St. Louis and East St. Louis. It will show the commodities, of which there are about two hundred, and the tolls, in parallel columns.)

Thereupon complainants rested.

W. C. MAXWELL was thereupon recalled as a witness on behalf of defendants and, having been previously sworn, testified as follows:

Direct examination:

Mr. Hughes asked for the traffic passing the Hannibal bridge, versus the traffic handled at St. Louis-East St. Louis, and I told him I would try and get it for a month. The figures of the interchange at St. Louis-East St. Louis for the month of June, 1925, indicate that for cars handled across the bridge between St. Louis and East St. Louis by the Wabash, it amounted to 6,950; for the same period we handled cars across the Hannibal bridge of 7,300 cars. [fol. 507] I thought it was about fifty-fifty, and this seems to indicate that it is close to that. Those figures deal with the Wabash traffic only. I want to make a statement just for the purpose of giving the facts. I understand that Mr. Nash stated that the east side lines were reimbursed for taking care of the bridge tolls on St. Louis proper traffic by increasing the rates, the basis of the rates, from 116 to 117 per cent. That increase at the time it was put in effect amounted to the following figures: Increased ½ cent on first, ½ on second, ½ on third, one-half on fourth, nothing on fifth or sixth. For carload traffic below fourth, commodity traffic, at the present time, the difference between 116 and 117 per cent is first, 1½, second, 1, third, 1, fourth, ½, fifth, ½, sixth ½. The bridge tolls are as follows: First 5, second 5, third 5, fourth 3.1, fifth 3.1, sixth 2.7. For the Central Freight Association there was added at the time that St. Louis and East St. Louis were made the same, on first class, 1 cent, second ½, third ½, fourth ½, fifth, nothing, sixth nothing. At the present time the rates are made on three miles over the actual mileage. Mr. Adams I believe it was, made some comment on the joint rate committee agreement, which seemed to indicate that I did not know what I was talking about. That agreement provides that the rate breaking point—that rates are to be made on East St. Louis and the East Bank of the Mississippi river. It covers the stabilizing of the East St. Louis rates, the extension of them to the upper bank points, and that there should be uniformity in rate making through

that agreement. The agreement itself does not cover this particular gateway, except in so far as stated, as the method of making rates on the east bank.

I wish to show what the controversy, in my opinion, has narrowed down to; what traffic is involved. It is not ten per cent of the total traffic, where the combinations are made on both sides of the river. Not over fifteen per cent of all traffic moving through East St. Louis is on the combination of locals which are the same on St. Louis as on East St. Louis. Yes, less than fifteen per cent. Fifteen per cent is the maximum. It is my opinion.

The record shows that since 1877 the Chicago & Alton has [fol. 508] been at East St. Louis and applies the St. Louis rates from East St. Louis, and that road and the C. B. & Q. are there today. Neither of them use the St. Louis bridge to any extent on their western traffic. The Wabash made the same rates as the C. & A. and C. B. & Q. and is glad to do so today. This leaves but the Chicago, Rock Island, & Pacific as a distinct western road. The Chicago, Rock Island & Pacific obtained control of the St. Louis & Colorado Railroad into St. Louis in 1904. It is fair to assume that it did so with its eyes open and knew that it was going to enter the traffic from the east and must handle it from East St. Louis. As far as the distinctly western roads are concerned, it is merely a case of the Chicago, Rock Island & Pacific meeting a situation that existed since 1877. As to the southwestern business, the Cotton Belt does not operate through St. Louis. Its line is down the east side of the river and St. Louis rates must apply from East St. Louis as a maximum. The Missouri Pacific has a line at East St. Louis, and as shown by the testimony 85 per cent of the traffic northbound delivered to the Wabash by the Missouri Pacific is handled by the east side line, and that Southwest 74 per cent of the traffic is delivered by the Wabash at East St. Louis. This leaves the Frisco and the M. K. & T. to meet the situation of two aggressive competitors, the Missouri Pacific and Cotton Belt. They have been doing so all these years, and must continue to do so. Their disability is their own burden and not one of the eastern roads. I again repeat that the record filed in this case, the Powell report, Exhibit No. 59, is complete, and shows that since 1877 the eastern lines never had the duty of per-

forming the bridge service and there has not been one penny included in their rates to take care of that expense, and that all traffic between eastern and western roads has been clearly provided through the joint rate committee agreement of 1889 for handling on the east bank Mississippi river combination. This condition is well known by the Interstate Commerce Commission, and is clearly set out in Exhibit No. 62, excerpts from decisions of the Interstate Commerce Commission. I will not read a number of cases that I have here, but every case shows that the east [fol. 509] bank is the rate breaking point. Now, this is the point that I want to get in: If a change is made in the point of interchange only on traffic on which the combination is the same on St. Louis as on East St. Louis, I claim there will be confusion and chaos in the rate fabric and only a limited portion of the traffic will be affected by this change, that is, to a limited territory. The rates to the Missouri river under the Warnock decision, which are less from East St. Louis than the local rates from St. Louis cannot be changed unless the Interstate Commerce Commission would reverse itself so as to enable the western roads to get more than they are legally entitled to under that decision. The same is true of the Mitchell, Aberdeen, Grand Island and Watertown cases mentioned above. This leaves only a small portion of Missouri and a small part of Trans-Missouri territory—Missouri proper, I am talking about, and not Kansas City and St. Joe—as practically everything else is governed by through rates, or else there are agreed divisions on East St. Louis. If an attempt is made to work this small tonnage on St. Louis, besides the injustice there must be a readjustment at all points north of East St. Louis. There will probably be ten per cent of the traffic that might be handled on the St. Louis combination, and that traffic thereafter would be subject to variations made by the Missouri State Commission, whereas, the present rate fabric being based on the east side is under the entire control of the Interstate Commerce Commission. If the eastern roads had known at any time since 1877 that they were obliged to get rates which would take care of this bridge toll, they would have been very wide awake and would have endeavored to make some provision for it in their rates.

I mean by my statement about making a readjustment at all points north of East St. Louis that you would have to adjust rates via Louisiana and via Hannibal, by the Burlington. They will be right after it in a minute, and you will involve every Ohio river gateway also, before you get through this. This is additionally shown by the cor- [fol. 510] respondence filed in Exhibit No. 5 by the complainants in this case, letters from Mr. Mitchell, and letters from all of the eastern traffic officials.

We will merely ask them to give it to us at Hannibal, and take it across the river there; we won't break on the east side of the river; we will make a lot of money out of it, unjustly, that does not belong to us.

I did not say that the Commission was powerless to decide this controversy unless it takes into consideration rates and divisions all over the country; I said up and down this river, where they have done the same identical thing all these years. We have got to change them all, or there is no justice. That is my firm belief.

(Thereupon the defendants offered telegram of Mr. F. A. Barber, Asst. General Freight Agent of the Wabash to Mr. Morris, Chairman of the Central Freight Association, and *of* Mr. Morris' reply, both dated September 23rd, 1925, as Exhibit 78. Mr. Barber inquired why Jones' Freight Tariff 418 covering classes and commodities from Indiana and Michigan to Missouri river points does not show Terminal Railroad or St. Louis Merchants Bridge as participating carriers. Mr. Morris replied that they were omitted through oversight and would be added effective November 1st.)

Thereupon defendants rested.

Thereupon, at 12:00, noon, September 26, 1925, the hearing of the above-entitled matter was closed.

[fols. 511-570] The foregoing is a statement reduced to narrative form of the transcript of the evidence before the Interstate Commerce Commission in Docket No. 16697, which transcript as introduced in evidence in this cause was certified to as follows:

Filed Nov. 29, 1926, at — o'clock — M. Charles M. Bates, Clerk.

INTERSTATE COMMERCE COMMISSION, WASHINGTON

SECRETARY'S CERTIFICATE

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of all of the transcript of the stenographer's notes of the hearing held September 21, 22, 23, 24, 25 and 26, 1925, at St. Louis, Missouri, before Examiner Disque in case No. 16697, Chicago, Rock Island & Pacific Railway Company et al. vs. Baltimore & Ohio Railroad Company et al., and all of the exhibits introduced in evidence at said hearing or in response to requests made at the hearing, the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 26th day of November, A. D. 1926.

(Signed) George B. McGinty, Secretary of the Interstate Commerce Commission. (Seal of Commission.)

[fol. 571] EXHIBIT No. 5

[fol. 572] Copy

April 7th, 1908.

Mr. Robt. H. Whitelaw, vice-chairman Municipal Bridge & Terminals Commission, Mayor's Office, Saint Louis, Mo.

MY DEAR SIR: I am just in receipt of your letter of April 4th enclosing copy of the Report to you of April 2nd made by the Special Committee of East-bound Lines, with Mr. Ives as Chairman, and I have read the contents with interest.

Let me preface my remarks by saying that the Rock Island and Frisco Lines are as heartily interested as can be any of the Eastern Lines in the amicable solution of the Terminal difficulty at St. Louis and the placing of St.

Louis and E. St. Louis merchants on exact parity. We have not placed any obstacle in the way of East Side Lines in fixing up their difficulties, and shall not. The action taken by the Rock Island, Frisco and Mo. Pacific and Iron Mountain Lines at the meeting of April 1st was logical and fair, and had all the facts been reported to you the complexion of the matter would, I think, be changed.

The only complaint of the Western Lines is as to the distribution of the expense of the program of wiping out the Bridge Toll which the East Side Lines are gradually carrying forward. The west side lines simply seek an amicable and fair division of this expense, so that in the matter of through business as well as business handled on the basis of transit arrangements through elevators, mills and other industries at St. Louis. The absorption of the bridge charges necessary by either the East or the west Side Lines in order to "put St. Louis on the map" may not be entirely saddled upon the west side lines in both directions.

I respectfully call your attention to the fact that for years on west bound business, except possibly within a local radius of less than one hundred miles, the industries at East St. Louis have had at the hands of western carriers an exact parity of rates with merchants in St. Louis. On through business from the East destined through the St. Louis gateway to the west and southwest, the west side lines have gone to the East Bank of the River voluntarily and taken the business from their Eastern connections there, so that the transfer expense on all westbound business has for years been borne by the carriers reaching west from St. Louis. On east-bound business generally the Western Lines have never felt that they were justified in voluntarily assuming this expense, but felt that this was a part of the duty which rightfully developed upon the east-bound carriers in their program of putting St. Louis on the map.

In a general way, the western carriers feel that if they go to the East Bank of the River for west-bound business their Eastern connections should come to the west Bank for the east bound business.

[fol. 573] It is true, as you say, that for years it has been the policy of the western Lines to apply their grain rates

from the west to St. Louis and E. St. Louis alike. This was the result of unalterable conditions at the time when these policies were in the making. The Burlington and the Alton from the Missouri River crossed the Mississippi River above St. Louis and reached St. Louis through East St. Louis. They could see no justification for hauling their business to St. Louis through East St. Louis at a lower rate than they published locally to the East Side, so the rates became the same. To-day no such condition exists. Both the Alton and the Burlington have their own train service direct from the Missouri River to St. Louis, without crossing the Mississippi River. There is no logical reason why the rates to St. Louis should not end there, or why the west side lines should vicariously assume the cost of taking their grain across the river so that the East Side Lines may secure it. You understand that in this I am speaking of through business, and it is the through business in which we are most vitally interested, because in the aggregate there is much more grain which merely moves through St. Louis or is handled through elevators than that milled and consumed locally.

As to transit privileges: There is no reason why any industries in either St. Louis or E. St. Louis should suffer. If the Western Lines make their St. Louis rate to stop at the west Bank all that is necessary for the East Side Lines to do is to make their rates apply from St. Louis. Your fear in this matter seems to be that E. St. Louis mills and elevators will be required to pay the Bridge Toll in addition to the E. St. Louis rates. There is no reason why this should be. All that it is necessary for the East Side Line to do is to take the grain at the west side,—absorb the Bridge Toll, and allow transit privilege at E. St. Louis, just exactly as the west side Lines have been doing voluntarily in the reverse direction for years, until we find ourselves face to face with the proposition of making this program permanent, and lifting from the shoulders of the East side carriers the expense of putting St. Louis on the map so far as its grain and its grain products are concerned.

I do not offer to you in this any foolish or impossible solution of the problem; I simply say to you that I think it is fair for the East Side Lines to stand their share of

this burden of wiping out the Bridge Transfer, and the East Side Line which I represent has signified its willingness to stand its portion of the burden.

Prior to the conference of April 1st, both the Clover Leaf and Wabash had signified their belief that this was a fair proposition and had openly published that their rates on grain east-bound would apply from the west Bank. At this conference, however, some arguments were brought to bear which introduced them to recede from this position. At that conference, however, I gave the following notice for the Chicago & Eastern Illinois Railroad:

[fol. 574] "Notice having reached this Company of the intention of the Missouri Pacific, Iron Mountain, St. Louis & San Francisco and Chicago, Rock Island & Pacific Railways to limit application of their St. Louis grain rates to St. Louis proper, this is to advise that the Chicago & Eastern Illinois R. R. Company will consider it to its interest to apply the agreed specifics on grain from East St. Louis to Central Freight and Trunk Line territory from St. Louis as well, effective on the date that the west side lines limit their application to Saint Louis proper."

and the resolution quoted on Page four (4) of the letter to you from the St. Louis East-Bound Committee reaffirming the morning's action received the negative vote of the Chicago & Eastern Illinois Railroad, and the Report to you on this subject should have mentioned the fact. As an evidence of the good faith of the Chicago & Eastern Illinois Railroad, I enclose you copy of Amendement to our Grain Tariff authorizing this basis, so that the status so far as concerns St. Louis and E. St. Louis, and their ability to do a transit grain business remains exactly as it was prior to this controversy, so far as the Rock Island and Frisco and Chicago & Eastern Illinois Lines can bring it about.

If the other East Side Lines desire to carry out literally their pledges to the Municipal Bridge Commission and assume their just share of the resulting cost, they have only to follow the action we have taken. Personally, I can see no reason why your Honorable Committee should have been burdened with this internal matter among the lines themselves, particularly as it represents no disability placed upon your city or its merchants, but inasmuch as the action

of the Rock Island and Frisco and Chicago & Eastern Illinois Lines has been brought in question before you, and you have expressed yourself as believing that we have taken an inopportune time to thrash out this matter, I have found it necessary to plainly state to you the action which we have taken, and the leading of it, in order that there may be no misunderstanding as to what these lines desire and intend to do for your city so far as lies within their power.

If after this explanation you feel that a conference should be held, I shall be glad to attend at any time that may suit the convenience of your honorable body, but I am sure that it is not your purpose to permit the Commission to be used to force an unfair burden on lines who are disposed to do their full part in bringing about the end that you desire.

[fol. 575] If this explanation does not satisfy you as to the justice of our position we shall gladly suspend our proposed action.

(Signed) Very respectfully yours, W. B. Biddle.

cc. Mr. J. M. Johnson, Mr. E. B. Boyd, Mr. J. A. Middleton, Mr. H. Gower, Mr. G. H. Crosby, Mr. W. L. Ross, Mr. D. O. Ives, Mr. C. Haile, Mr. B. L. Winchell, Mr. A. J. Davidson, Mr. H. I. Miller.

[fol. 576] Chicago, Burlington & Quincy Railway Co.,
Chicago

April 7, 1908.

Mr. W. B. Biddle, Third Vice President, Frisco Lines, Chicago.

Dear Sir: Referring to your letter of the 4th, enclosing copy of your letter to Mr. Ingalls, in regard to proposition submitted at the conference in St. Louis last Wednesday, by the Missouri Pacific C. R. I. & P. and Frisco, that the rates on Grain to East St. Louis be made higher than the rates to St. Louis.

I do not know that we are opposed to this proposition. Our representative at the conference in question did not acquiesce in it for the reason that we want to give the matter a more thorough investigation before deciding the question. My own opinion for years has been that the rates to East St. Louis should be higher than the rates to St.

Louis. I think, however, the best time to have enforced that idea was when the rates from East St. Louis were less than from St. Louis. As the proposition stands today, if we tried to enforce a higher rate to East St. Louis, it would undoubtedly be on the presumption that there is no local consumption, and any attempt to do this will, to my mind, result in complaints, and it is questionable whether we can defend our course.

We are, as you are doubtless aware, the heaviest carrier of grain to the St. Louis market. During the year of 1907 we took in three times what the Missouri Pacific, C. R. I. & P. and Frisco did. During that year we handled 43 per-cent of the grain handled into that market. We have tried to save ourselves unnecessary expense for the handling of this grain business. Just a short time ago we tried to enforce a reconsignment charge. We tried to get other lines to refuse to absorb switching charge. We have also tried to get them to do away with the practice of absorbing the bridge toll on grain consigned to St. Louis and reconsigned to East St. Louis, all of which efforts have been unsuccessful, although our revenue is affected by this practice more than any road in St. Louis, and we are forced to do it to a greater extent than any other railroad. By the application of the St. Louis rates at East St. Louis, and from a standpoint of revenue alone, we should be in favor of the proposition, and we are, but how are we going to enforce [fol. 577] it?

The Grain is not consigned through. It is consigned locally to St. Louis or East St. Louis and undoubtedly a large amount of it is consumed or manufactured there.

After a period of 25 or 30 years of carrying St. Louis and East St. Louis common, what excuse are you going to give for changing the basis? How can we undertake to saddle the expense for transfer on the eastern roads? I think the whole question of transfer between St. Louis and East St. Louis should be disposed of on an equitable basis. As the matter stands today, the western line pays the transfer on both eastern and western business, which is manifestly unfair, and we are ready to co-operate with the other interested lines in bringing about a reformation in this respect.

Yours truly, (Signed) Geo. H. Crosby.

[fol. 578] St. Louis and San Francisco Railway

April 4, 1908.

Dear Mr. Crosby: Referring to the attached copy of my letter of today to Mr. Ingalls. While you might gain some personal advantage by continuing the present practices I question if the situation as a whole does not justify you in standing with the other western lines on this proposition. In any event, I would like to have you give it careful consideration.

Of course, we shall all probably be obliged, eventually, to do what any of our western competitors find it necessary to do.

Yours truly, (Signed) W. B. Biddle.

Mr. G. H. Crosby, Freight Traffic Manager, Burlington, Lines,—Chicago.

[fol. 579] Copy

Rock Island Lines

April 24, 1908.

Mr. B. B. Mitchell, Freight Traffic Manager, New York Central Lines, Chicago, Ills.

Dear Sir: Referring to our recent conversation concerning the matter of bridge toll at St. Louis. At that time you intimated that the Eastern Lines would desire a joint conference with the Western Lines.

I have heard nothing from you concerning it since our conversation. I am in receipt today of a letter from Mr. A. T. Perkins, Adviser, Municipal Bridge & Terminals Commission, in which he suggests the advisability of an early joint conference between the Eastern and Western Lines, and thinks that it should be held early next week, saying that there are reasons why it is very desirable that the matter be settled during the present month. I can only say to him that I have received no intimations thus far that a joint conference is desired by the Eastern Lines.

I said to you in conversation the other day that I thought the Western Lines would be willing to take no further action pending the joint conference w-ich you suggested.

Of course, we cannot remain inactive for an indefinite period.

Yours truly, (Signed) W. B. Biddle.

cc. Messrs. J. M. Johnson, C. Haile, D. O. Ives, G. H. Crosby, C. H. Ross, H. Gower, J. A. Middleton.

[fol. 580] Copy

The Missouri Pacific Railway Company

St. Louis, Mo., April 27, 1908.

Mr. W. B. Biddle, Third Vice President Rock Island Lines, Chicago, Illinois.

Dear Sir: I have before me copy of your letter of the 24th instant, to Mr. B. B. Mitchell, General Freight Traffic Manager of the New York Central Lines, in relation to the desirability of a joint conference between Eastern and Western Lines in the matter of bridge tolls at Saint Louis.

At the conference between the Municipal Bridge & Terminal Commission and Vice-President, Mr. C. S. Clarke, and myself, held here on the 17th instant, it developed that a conference between the Eastern and Western lines at an early date would be necessary, and, with that end in view, I took the matter up with Mr. D. T. McCabe, Chairman of the Committee of Eastern lines, as per copy of letter attached.

Mr. McCabe advises that owing to absence he was unable to give me an early reply, but under date of April 25th, he states that he will communicate immediately with the members of the Executive Committee of St. Louis eastbound roads and communicate to them the suggestion that there be a conference held with a committee of Saint Louis west side lines to give consideration to the matter of transfer charges between Saint Louis and East Saint Louis, and suggests next Friday, May 1st, as the date, and Saint Louis as the place for such conference.

Kindly advise if this date is satisfactory to you.

Yours truly, (Signed) J. M. Johnson.

cc. Mr. C. Haile, Mr. C. H. Crosby, Mr. H. Goser, Mr. D. O. Ives, G. H. Ross, J. A. Middleton.

[fol. 581] Copy

New York Central Lines

Chicago, April 27th, 1908.

Mr. W. B. Biddle, Third Vice President Rock Island Lines, Chicago, Illinois.

Dear Sir: Continued absence for over a week in the East has prevented earlier reply to yours of the 24th referring to the question of bridge toll at St. Louis; and your understanding that a joint conference with the Western Lines would be held in the near future is in line with my understanding, and as corroborated by Vice President D. T. McCabe's joint communication of April 25th, of which I notice copy was sent to you.

I have said, in reply to Mr. McCabe's suggestion for a meeting on Friday May 1st, that it would be entirely agreeable to me to attend.

Yours truly, (Signed) B. B. Mitchell, General Freight Traffic Manager.

[fol. 582] Copy

J-463. Saint Louis, May 19, 1908.

Mr. D. T. McCabe, 4th V. P. Pennsylvania Lines, Pittsburgh, Pa.

Dear Sir: Referring to our exchange of telegrams of the 18th instant, in respect to a joint conference between East and West side Saint Louis Lines, to give consideration to the subject of transfer charges between Saint Louis and East Saint Louis:

As this matter is of great importance and should be disposed of without any unnecessary delay, I shall be very much pleased if you will advise me at your earliest convenience if May 29th, 10:30 A. M., in the rooms of the Southwestern Tariff Committee, Century Building, Saint Louis, will be a satisfactory time and place for Committee of Eastern Lines to meet a like Committee of Western lines to further consider the matter referred to above.

I have no doubt the time and place suggested will be quite satisfactory to the Western lines and I trust it will be found so to your Committee.

Your prompt advice will be appreciated.

Yours truly, (Signed by) J. M. Johnson, Vice-President.

[fol. 583] Copy

Vandalia Railroad Company

Pittsburgh, Pa., May 21, 1908.

Mr. J. M. Johnson, Vice-President Missouri Pacific Ry. Co., St. Louis, Mo.

Dear Sir: Referring to previous telegraphic correspondence and your communication addressed to Mr. McCabe under date of May 19th.

As stated in my letter to you of the 15th instant, Mr. McCabe is absent in the West, and, according to present advices, will return to Pittsburgh the last of this month. On taking the subject up, we find that it will be quite impracticable for the representatives of several of the other important Eastbound Roads to attend the meeting on the day proposed, and the suggestion has been made that the same be not reconvened until some time during the first week of June, at which time it is anticipated a more satisfactory attendance can be secured. As such a postponement would result in but a short delay after the date you mention, I write this letter to inquire whether such an arrangement would be entirely agreeable to the Western Lines. If, however, you feel that an effort should be made to secure a meeting on May 29th, as indicated in your letter, we will take the matter up with the parties interested, and endeavor to so arrange.

Yours truly, (Signed) R. E. Cook, Chief Clerk.

[fol. 584] Copy

J-463. Saint Louis, May 25, 1908.

Mr. D. T. McCabe, 4th V. P. Pennsylvania Lines, Pittsburgh, Pa.

Dear Sir: Referring to your Mr. Cook's letter of May 21st, advising that it will be impracticable for the repre-

sentatives of several of the Eastern roads to attend conference in Saint Louis on May 29th, will state that it is very important that the lines be authoritatively represented at the proposed conference that the matter in hand may be satisfactorily disposed of when such a conference convenes and it being apparent that the date suggested is not satisfactory to all concerned, the date suggested is hereby set aside and the meeting postponed indefinitely.

Yours truly, (Signed by) J. M. Johnson, Vice-President.

[fol. 585] Copy

St. Louis, June 12th, 1908.

File J-463.

Mr. D. T. McCabe, Fourth Vice-President Pennsylvania, Lines, Pittsburgh, Pennsylvania.

Dear Sir: In accordance with proceedings of joint conference between East and West Side Saint Louis lines, held at Saint Louis May 1st, to consider the subject of transfer charges between Saint Louis and East Saint Louis, at which time it was understood the Chairman of that conference would call a further meeting during the week of May 18th (which meeting was not held account inability of all lines to be represented), I would respectfully ask if it will suit you and the members of your Committee to meet with the West Side lines in Saint Louis Missouri, June 25th, at 10:30 A. M., in the rooms of the Southwestern Traffic Committee, Century Building, to give further consideration to the subject above referred to.

It is very desirable indeed that the subject be disposed of at the earliest practicable date and therefore I would very much appreciate your prompt advice as to whether or not the time and place suggested are satisfactory.

Yours very truly, (Signed by) J. M. Johnson.

SP.

Copies Messrs. S. T. McLaughlin, W. E. Keepers, B. B. Mitchell, R. A. Campbell, F. C. Reilly, John Fitzgerald.

[fol. 586] Copy

Meeting of East and West Side Lines Held at Saint Louis June 25th, 1908

Representation:

B. & O. S. W. R. R.	S. T. McLaughlin, Edward Hart, Jr.
C. B. & Q. R. R.	G. H. Crosby, Wm. Gray
C. & A. R. R.	W. L. Ross, Ed. Keane
C. C. C. & St. L. Ry.	B. B. Mitchell, Walter Nichols
C. & E. I. R. R.	Theo. Brent, F. C. Reilly
C. R. I. & P. Ry.	Theo. Brent, H. Gower
I. C. R. R.	B. J. Rowe
L. & N. R. R.	C. B. Compton, John Fitzgerald
M. K. & T. Ry.	G. Haile
Mo. Pac. Ry.	J. M. Johnson
Pennsylvania Lines	Wm. Hodgdon
Southern Railway	T. C. Powell, R. A. Campbell
St. L. & S. F. R. R.	J. A. Middleton
St. L. E. B. F. Committee	R. M. Fraser
T. & St. L. & W. R. R.	W. L. Ross, Ed. Keane
Vandalia Railroad	G. W. Davis
Wabash Railroad	D. O. Ives, W. C. Maxwell, R. N. Collyer

The first order of business was reading report of the Committee of Eastern Lines, appointed for the purpose of preparing statistics covering the movement of Grain and Grain Products, and the capacity of mills and Elevators in St. Louis and East St. Louis and submit recommendation on the question of interchange of freight traffic between the East Side and West Side Lines.

St. Louis, Mo., May 11th, 1908.

Mr. R. M. Fraser, Chairman of St. Louis Eastbound Freight Committee, St. Louis, Missouri.

DEAR SIR: Your special committee appointed at meeting of May 4th, begs to report as follows:

[fol. 587] As to Statistics: Your committee finds there is no data available from which the features desired, as shown in proceedings of the meeting, can be tabulated, the District Inspector reporting that Grain Records Handled through the offices of the Bureau here are not kept in such form as will yield the information desired. The Merchants Exchange was also consulted, but could render no assistance. Your Committee, Therefore, regrets its inability to comply with your instructions.

As to the capacity of Flour Mills; they are estimated, as are grain elevators as follows:

The Capacity of Mills at St. Louis, East St. Louis, and Alton

Name	Location	Daily capacity	
		Furnished by commissioner merchants exchange	Furnished by district inspector
Plant Milling Co.	St. Louis	2,000 bbls.	2,000 bbls.
Saxony Mill Co.	" "	900 "	1,100 "
Sessinghaus Milling Co.	" "	400 "	....
Carondelet Milling Co.	Carondelet	300 "	500 "
Purina Mills (Feed & Cereals)	St. Louis	Est. Feed 10 cars	13 Cars
Corno Mills (Feed & Chicken Food)	St. Louis	24 Cars	....
Kehlor Flour Mills	E. St. Louis	3,000 bbls.	2,200 bbls.
Hezel Milling Co.	" " "	500 "	500 "
Purina Mills (Feed & Cereals)	" " "	Est. Feed 10 cars	12 Cars
Standard Tilten Milling Co.	Alton	2,000 bbls.	....
Sparks Milling Co.	"	2,000 bbls.	....

Elevators

Name	Capacity in bushels
Advance	600,000
Burlington	1,300,000
Belt	250,000
Central B	650,000

Merchants	400,000
Mississippi Valley	1,500,000
Mounds City	50,000
Southern	1,000,000
Terminal	100,000
Venice	500,000
Used as Elevator only Victoria Mills	25,000
Buss Mills	80,000
Brooklyn Street	20,000
Granite City	20,000
[fol. 588] St. Clair	50,000
Wabash	40,000

As to rate adjustment, your committee suggests the following:

1st. The readjustment of St. Louis-East St. Louis Rates. In response to Demands of St Louis Commercial interests, and Public Sentiment did not contemplate any corresponding readjustment of rates on trans-Mississippi River traffic, nor create any condition which necessitates the assumption of Mississippi River transfer charges, or any part thereof by Eastern Lines on such traffic, and all efforts on the part of Western Roads in that direction should be discouraged and resisted because the application, by Western Roads, of the West Bank Mississippi River rates from the East Bank is the result of Geographical and competitive conditions, and such rates have, for many years been constructed accordingly. The fact that Western Roads make rates between points on their lines in Illinois and Points west of the Mississippi River either the same as St. Louis or on a differential higher, is prima facie evidence that the assumption of Mississippi River Transfer charges by the Eastern Roads would be entirely superrogatory and made the average earnings of Western roads west of Mississippi River over and above what would be earned on like traffic to and from their own points east of the River.

2nd. It has been claimed by some of the roads which advocate the application on Trans-Mississippi River Traffic of East St. Louis Rates from St. Louis to Eastern Points, that the eastern roads would be benefited to the extent of the Greater volume of traffic which Western Roads would route via East St. Louis on that account, evidently overlooking the fact that whatever adjustment is made at St. Louis and East St. Louis will apply equally via upper Mississippi River Crossings, east Louisiana to East Dubuque, inclusive. Thus not changing the relative conditions as between St. Louis, East St. Louis and upper Mississippi River Crossings.

3rd. A departure from the principles annunciated in the first section hereof would also establish a precedent for corresponding changes at Cairo, Gale, Thebes and Memphis and the assumption on the part of the lines leading eastwardly from these points of the Mississippi River Bridge Tolls, which are now borne by Western Roads, and corre-

sponding changes at Evansville, Louisville and Cincinnati. Whereon traffic originating in or destined to Southeastern Territory, the Ohio River Bridge Toll is assumed by the Southern Lines on traffic in both directions.

4th. No exception should be made to the East Bank Mississippi River basis on Trans-Mississippi River Traffic.

5th. So-Called "proportional rates" being established in lieu of special divisions of through rates or to provide a more satisfactory combination of rates on through traffic, and being not applicable on local traffic to or from the [fol. 589] basing points (in this case East St. Louis) were not included in the agreement or understanding reached between the Eastern Roads and the St. Louis Municipal Bridge and Terminal Commission. No obligation for the establishment of East St. Louis proportional rates from St. Louis, therefore, exists. St. Louis merchants, as such, not being interested.

6th. As to Grain and Grain Products: Western roads accord mills and elevators on their rails at all points except St. Louis a transit or milling-in-transit privilege and deliver such traffic to their connections on the same terms as direct through consignments. They have, however, discriminated against St. Louis in that respect and for many years prior to the readjustment of St. Louis-East St. Louis rates by Eastern Roads, have kept them at a disadvantage to the extent of the Bridge Toll plus their own switching charge, claiming that their interest in the Grain ceased when it entered the mill, and some roads have taken the same position with respect to Grain going into St. Louis elevators.

Under the stress of competition and the action of Roads whose primary interests lay west of the Mississippi River, first the switching charge and then the River Transfer has been eliminated and the obligations of the Western Roads thus assumed by the Eastern Roads and the Western Roads now seek to perpetuate the advantage they have thus acquired, which, as it is an entering wedge to the breaking down of the East Bank Mississippi River adjustment of rates on Trans-Mississippi River traffic, your committee unanimously disapproves, feeling that the principles annunciated in the first, fourth and fifth sections hereof should be carried out on Grain and Grain Products

as well as all other commodities, and that while St. Louis milling and elevator interests are undoubtedly entitled to an adjustment which will place them on an exact parity with mills and elevators at East St. Louis, they should look to the Western Roads, rather than the Eastern Roads for relief from the disabilities under which they have been laboring.

Respectfully submitted.

Ed. Hart, Jr., Ed. Keane, Walter Nichols, Geo. W. Davis, Chairman.

On motion, the report was received and it was ordered that it be made a part of the minutes of this meeting.

The following recommendation was offered by Mr. T. C. Powell:

"Recomended: That the mills and elevators in St. Louis and East St. Louis shall be considered as one district, and that uniform reshipping and reconsigning and milling in transit privileges shall be accorded to said traffic in both cities.

1st. Grain and Grain Products brought into St. Louis by west side lines and disposition instructions given for de- [fol. 590] livery to an elevator, Warehouse, industry or team track in East St. Louis for unloading, East St. Louis rates to be applied, Bridge Transfer to be borne by inbound line.

2nd. Grain and Grain Products brought into East St. Louis by East Side Lines, and disposition instructions given for unloading at an elevator, warehouse, industry or team track in St. Louis rates to be protected, bridge transfer to be borne by the East Side Lines.

3rd. Grain and Grain products forwarded from elevators, warehouses, or industries, in Sast St. Louis to Western, Southwestern or Southern destinations, Bridge Transfer to be assumed out of the earnings of outbound lines.

4th. Grain and Grain products forwarded from Elevators, warehouses or industries, in St. Louis, to Southern, Southeastern or Eastern destinations, Bridge Transfer to be borne by outbound lines."

Substitute Recommendation, as follows, was offered by Mr. S. T. McLaughlin:

"Recommended: That the mills and elevators in St. Louis and East St. Louis shall be econsidered by both East Side and West Side roads as one district and that customary reshipping and reconsigning and milling-in-transit privileges shall be accorded to said traffic in both cities, and uniformity shall be maintained throughout the District."

Vote was taken upon the substituted recommendation and declared lost.

Vote was then taken upon the original recommendation and it was negatived.

The following recommendation was offered by Mr. C Haile:

"Recommonded: That the mills and elevators in St. Louis and East St. Louis shall be considered as one district, and that uniform reshipping and reconsigning and milling-in-transit privileges shall be accorded to said traffic in both cities:

1st. Grain and Grain Products brought into St. Louis by West Side Lines and disposition instructions given for delivery to an elevator, warehouse, industry of team track in East St. Louis, for unloading, East St. Louis rates to be applied, Bridge Transfer to be borne by the inbound lines.

2nd. Grain and Grain Products brought into East St. Louis by East side lines, and disposition instructions given for unloading at an elevator, warehouse industry or team track in St. Louis, the St. Louis rates to be applied, Bridge Transfer to be borne by the East Side Lines.

3rd. Grain and Grain Products forwarded from Elevators, warehouses, or industries in East St. Louis, to Western, Southwestern or Southern destinations, Bridge Transfer to be borne by the outbound and inbound lines on basis of 50 per cent.

[fol. 591] 4th. Grain and Grain Products forwarded from Elevators, warehouses, or industries in St. Louis to Southern, Southeastern or Eastern destinations, Bridge Transfer to be borne by the outbound and inbound lines on basis of 50 per cent.

5th. On all other through traffic, the River transfer charges shall be borne by East Side and West Side lines basis of 50 per cent.

There was some discussion of this proposition, but no vote was taken. Motion, as follows, being offered:

"Recommended: That a sub-committee of three be appointed by the East Side Lines to confer with a similar committee to be appointed by the west side lines, to recommend a method of settlement of the question of disposition of, or dividing the bridge toll and switching between St. Louis and East St. Louis on through traffic moving in either direction via East St. Louis to and from points both of which are outside of the limits of St. Louis and East St. Louis. Said joint committee to report to an adjourned meeting of this General Committee as soon as possible."

The foregoing was unanimously adopted, and in line therewith the Chairman announced the followng committee:

Representing West Side Lines: Mo. Pac. Ry. (Chairman), C. & St. L. Ry., B. & O. S. W. R. R.

Representing East Side Lines: Vandalia Railroad, C. C. C. & St. L. Ry., B & O. S. W. R. R.

It being understood the committee would meet upon call of its Chairman.

On motion, the meeting adjourned, subject to call of the Chairman.

J. M. Johnson, Chairman.

[fol. 592] Copy

The Missouri Pacific Railway Company

St. Louis, Mo., July 21, 1908.

Mr. G. W. Davis, G. F. A., Vandalia Railroad, St. Louis; Mr. B. B. Mitchell, G. F. T. M., New York Central Lines, Chicago; Mr. S. T. McLaughlin, G. F. A., B. & O. S. W. R. R., Cincinnati; Mr. W. Gray, G. F. A., C. B. & Q. R. R., St. Louis; Mr. J. A. Middleton, F. T. M., St. L. & S. F. R. R., St. Louis.

Dear Sir: At meeting of east and west side lines, held in Saint Louis, June 25th, the Vandalia Rairoad, C. C. C. & St. L. Ry. and B. & O. S. W. R. R., were appointed to rep-

resent the East Side Lines, and the C. B. & Q. R. R., St. L. & S. F. R. R. and Mo. Pac. Ry. a Committee to represent the West Side lines, it being understood the Committee would meet upon call of its Chairman, to recommend a method of settlement of the question of disposition of, or dividing the Bridge Toll and switching between St. Louis and East St. Louis on through traffic meeting in either direction via East St. Louis to or from points both of which are outside of the limits of St. Louis and East St. Louis.

As Chairman of that committee, call is hereby issued for the Committee to convene in St. Louis, Wednesday, July 29th, at rooms of the Southwestern Tariff Committee, Century Building, 10:30 A. M.

Will you kindly advise me in the event there are objections to holding the meeting at the time and place suggested. It is hoped, however, the meeting can be held on the date suggested, as it is very desirable to dispose of the matter in hand at the earliest practicable date.

Yours truly, (Signed) J. M. Johnson, Vice-President.

cc. Mr. Wm. Hodgdon, Mr. W. B. Biddle, Mr. G. H. Crosby.

[fol. 593] Copy

The Missouri Pacific Railway Company

St. Louis, Mo., July 25th, 1908.

Messrs. W. B. Biddle, M. Brent, H. Gower, J. A. Middleton, D. Miller, G. H. Crosby, W. Gray, D. T. McCabo, Wm. Hodgdon, G. W. Davis, S. T. McLaughlin, Ed. Harte, Jr., B. B. Mitchell, Walter Nichols.

Dear Sir: We find it is not possible to secure meeting of the Committee representing East and West side lines at Saint Louis, for Wednesday, July 29th, and it has been suggested by a representative of an Eastern line that in as much as all lines members of the Committee will be represented in New York on August 5th, at meeting called to give consideration to Uniform Classification matters, that meeting of the Committee be set for 11:00 A. M., Thursday, August 6th, Trunk Line Committee Rooms, New York City, and such will be the order unless there is serious objection.

Please advise.

Yours truly, (Signed) J. M. Johnson, Vice-President.

[fol. 594] Meeting of Committee Representing East and West Side St. Louis Lines Held in New York City August 6th, 1908

The Meeting convened at 11:00 a. m. representation being as follows:

Representing West Side Lines: C., B. & Q. R. R., D. Miller, W. B. Hamblin; Mo. Pac. Ry., J. M. Johnson; St. L. & S. F. R. R., T. Brent.

Representing East — Side Lines: B. & O. S. W. R. R., S. T. McLaughlin, Ed. Harte, Jr.; C. C. C. & St. L. Ry., B. B. Mitchell, G. H. Ingalls; Vandalia Railroad, G. W. Davis.

The Chairman stated that the meeting convened pursuant to recommendation adopted at meeting of the East and West Side Saint Louis Lines held in Saint Louis, June 25th, 1908 as follows:

"Recommended: That a sub-Committee of three be appointed by the East Side Lines to confer with a similar Committee to be appointed by the West Side Lines, to recommend a method of settlement of the question of disposition of, or dividing the bridge toll and switching between Saint Louis and East Saint Louis on through traffic moving in either direction via East Saint Louis to and from points both of which are outside of the limits of Saint Louis and East St. Louis. Said Joint Committee to report to an adjourned meeting of this General Committee as soon as possible."

Representatives of Western Lines offered the following recommendation as representing their views on the subject referred to them for consideration:

"Recommended: That the mills and Elevators in Saint Louis and East St. Louis shall be considered as one district, and that uniform reshipping and reconsigning and milling in transit privileges shall be accorded to said traffic in both cities:

[fol. 595] (1st) Grain and Grain Products brought into Saint Louis by west side lines and disposition instructions given for delivery to an elevator, warehouse, industry or Team track in East St. Louis, for unloading, East Saint Louis rates to be applied, Bridge Transfer to be borne by the Inbound Line.

(2nd) Grain and Grain Products brought into East Saint Louis by East Side Lines, and Disposition instructions given for unloading at an elevator, warehouse, industry or Team Track in Saint Louis, The Saint Louis rates to be applied, Bridge Transfer to be borne by the east side lines.

(3rd) Grain and Grain Products forwarded from Elevators, Warehouses, or industries in East Saint Louis, to Western, Southwestern or Southern destinations, Bridge Transfer to be borne by the outbound and inbound lines on basis of 50 percent.

(4th) Grain and Grain Products forwarded from Elevators, Warehouses, or industries in Saint Louis to Southern, Southeastern or Eastern destinations, Bridge Transfer to be borne by the outbound lines on basis of 50 percent.

(5th) On all other through traffic, the River Transfer charges shall be borne by East side and west side lines basis of 50 percent."

After a very general discussion of the foregoing recommendation, it was submitted to a vote, the Western members voting in the affirmative and the Eastern members in the negative.

No further recommendations being submitted, meeting adjourned with the understanding that it would not be necessary to call a meeting of the General Committee.

J. M. Johnson, Chairman.

Copy of this report to all Saint Louis Lines.

[fol. 596] August 31, 1908.

Personal. 1 St. L.

My Dear Mr. Mitchell: Has your personal attention been directed to the controversy between the eastern and western lines in the matter of divisions or terminal absorptions growing out of the promise made by both the eastern and western lines "to put St. Louis on the map" as they term it?

My thought has been all along that this was something that necessitated some shrink in the earnings of the lines, and that under the circumstances, it ought to be approached

by both the eastern and western lines in a spirit on conciliation and with a view of determining what was fair to both, letting each interest bear its share of the burden, and not, as I understand has been the case up to this time, forcing the western roads to do something in the way of these absorptions that competition and peculiar conditions among themselves has heretofore resulted in their doing.

I assume that it is in the power of the eastern roads possibly, to force us to do this and am simply appealing to your sense of fairness, to ascertain if, in your judgment, this is just the right thing to do. If what you ask us to do is fair, I have nothing further to say about it.

Yours truly, W. B. Biddle.

Mr. H. B. Mitchell, General Freight Traffic Manager New York Central Lines, Chicago.

[fol. 597] New York Central Lines

Chicago, September 1st, 1908.

Refer to file No. 36449.

Mr. W. B. Biddle, Vice President Rock Island Lines, Chicago, Ill.

My Dear Mr. Biddle: Mr. Mitchell is away on his vacation and, as I have been with him at most of the meetings called for the consideration of the St. Louis situation, was with him in New York and know his views in the matter, his office has turned over to me your letter to him for answer. You will pardon me if I take up some time but I think it necessary for me to explain our position to you in detail.

In the first place, viewing it from our standpoint, the delivery of freight at St. Louis was one that the western lines themselves has brought about through the operations of the Alton and then, undoubtedly, through a desire on the part of the western lines to put the St. Louis gateway on an equal basis with the upper Crossings. In my mind no controversy would have arisen, except through the complications that came in by the adjustment brought about with The St. Louis Terminal Commission.

When we were adjusting this St. Louis situation I happened to be present at a good many of the meetings and

representatives of the C., B. & Q., C. & E. I., Wabash, etc., were also present. One of the points argued out a great many times was the question as to whether the adjustment for St. Louis proper would in any way complicate our relations with the western lines and it was the opinion of those present at the meetings that it should not do so.

The present controversy however arose through a desire on the part of the Industrial Commissioners and Tariff Bureaus to reach an understanding that would enable them to grind their wheat at St. Louis and also handle grain on the same through rate from the West to the East as effective through other crossings. As you know a meeting was called at St. Louis and I believe at that time if the western lines had met the eastern lines half way an adjustment could have been reached. As you know your people were the instigators of the position of the western lines and they withdrew from the meeting and sent us a written notice to the effect that on and after a certain date they would deliver their eastern traffic to us at St. Louis. They did not have the courtesy of coming to us and explaining their change of attitude but sent the notice to us by messenger. This notice was signed with your name although we knew that you were not in the City and that there then was no official of your Lines there. This undoubtedly caused some [fol. 598] ill-feeling but it did produce a most exhaustive and thorough study of the situation on our part and it showed us clearly and conclusively that if we accepted any such notice as that, even in the spirit that it was given, there was nothing to stop the spreading of similar notices and it would extend to the upper crossings and furthermore, to the Ohio River Crossings. You, no doubt, are familiar with the situation at Cairo, Evansville, Louisville and Cincinnati and if our Lines took the position of receiving freight for the East at St. Louis, there is no reason why the same rule should not apply at other crossings.

Undoubtedly, in my mind, as stated above, some adjustment might have been made as an arrangement between the western and eastern lines as a compromise measure to the St. Louis merchants but now, on account of the situation it has been placed in by the western lines and placed in the position of a delivery between western and eastern lines and no consideration as to the St. Louis merchant's appeal

being given, the eastern lines feel that it would be a grave mistake on their part to take any action at St. Louis that would endanger our present arrangements, not only via the Ohio River Crossings but also maybe via the Upper Crossings. Therefore, it is our belief that nothing can be accomplished on our part toward the solution of this question We are very strongly appreciative of the fairness that you have always displayed in the handling of these matters and would like to see our way clear to meet you half way in this adjustment but it seems to us that it is one of those situations where the action of the other lines has absolutely eliminated any possibility of our Lines retreating or offering a compromise of the situation that now exists.

Yours very truly, (Signed) G. H. Ingalls, Freight Traffic Manager.

GHI.

[fol. 599] Copy

New York Central Lines

La Salle Street Station, Chicago.

At Mackinac Island, September 10th, 1908.

Personal.

My Dear Mr. Biddle: Your letter of August 31st, file 1 StL, has just reached my hands, and which in my absence was replied to by Freight Traffic Manager Ingalls, who has generally voiced my views as to the Saint Louis situation.

The suggestion of the west side lines as to a division of the bridge expenses if considered favorably by the east side lines would bring about serious complications with their connections at the upper crossings, and, as stated by Mr. Ingalls, might possibly bring about similar complications at the Ohio River Crossings.

It is unnecessary, I think, to comment upon the attitude of the west side lines, and which might be pursued at conconsiderable length in connection with the query voiced in the last paragraph of your letter as to the question of fairness.

Yours truly, (Signed) B. B. Mitchell, Gen'l Freight Traffic Manager.

Mr. W. B. Biddle, V. P. Rock Island Lines, Chicago.

[fol. 600] St. Louis and San Francisco Railway

St. Louis, July 20th, 1911.

DEAR MR. BIDDLE:

With reference the attached.

In conference this morning, the matter of interchange was thoroughly ventilated. The Western roads, including the Burlington, felt if we are to expect a readjustment of this matter we should proceed along the lines indicated. It was felt a reopening of the subject by various committees would be drawn-out and fruitless so far as results, but it was pointed out by Messrs. Haile and Johnson that a committee composed of the gentlemen indicated visit the eastern gentlemen at an early date might be able to present the question in a way that would at least give us the knowledge of whether we can expect any help from the eastern lines, or whether it will be necessary to use other methods.

It was suggested that you get in communication with the eastern gentlemen, select any date convenient for a conference in New York, advising the others interested and they would arrange to attend personally.

This looks to me about the best way we can get this subject started and it was suggested if you can arrange this meeting within the next two weeks it will be entirely convenient to the western lines.

Yours truly, (Signed) F. C. Reilly.

Mr. W. B. Biddle, Vice President.
cc. Mr. J. A. Middleton.

[fol. 601] St. Louis & San Francisco Ry.

Saint Louis, July 21st, 1911.

Mr. Geo. F. Randolph, 1st Vice-Pres. B. & O. R. R., Baltimore, Md.; Mr. C. F. Daly, Vice-Pres. N. Y. C. Lines, New York City, N. Y.; Mr. D. T. McCabe, Vice-Pres. Pennsylvania Lines, Pittsburgh, Pa.

GENTLEMEN: At a conference held in St. Louis on July 20th Messrs. J. H. Johnson, C. G. Burnham, C. Haile and the writer were appointed a Committee to confer with the gentlemen to whom this letter is addressed on matters relating to interchange relations at St. Louis and East St. Louis, between the Eastern and Western roads.

I am authorized to say that we will try and arrange to meet you at any time and place you may suggest within the next two weeks, if given a few days advance notice. I think about the middle of the week would best suit our convenience. Will you kindly advise if it will be agreeable to you to hold such a conference?

Yours truly, (Signed) W. B. Biddle.

cc. Messrs. J. M. Johnson, C. C. Burnham, C. Haile.

[fol. 602] Baltimore & Ohio Southwestern Railroad, Chicago & Alton Railroad, Chicago & Eastern Illinois Railroad, Chicago, Peoria & St. Louis Railroad, Cleveland, Cincinnati, Chicago & St. Louis Railway, Illinois Central Railroad, Louisville & Nashville Railroad, Southern Ry., Toledo, St. Louis & Western Railroad, Vandalia Railroad, The Wabash Railroad.

St. Louis, Mo., August 17th, 1914.

Messrs. Ed Keane, A. G. F. A., C. & A. R. R.; Wm. Gray, G. F. A., C., B. & Q. R. R.; E. J. O'Neill, G. F. A., C. R. I. & P. Ry.; W. W. Miller, G. F. A., M. K. T. Ry.; C. E. Perkins, F. T. M., Mo. Pac.-St. L. I. M. & S. Ry.; J. D. Watson, A. F. T. M., St. L. S. W. Ry.; F. C. Reilly, A. F. T. M., St. L. & S. R. Ry.; C. H. Stinson, G. F. A., Wabash R. R.; W. C. Stith, T. M. Terminal R. R. Assn., St. Louis, Mo.

Gentlemen: It was understood when St. Louis rates to and from C. F. A. Trunk Line and New England territories were published in response to demands of St. Louis commercial interests that Trans-Mississippi River traffic would continue to be handled on the East St. Louis basis.

Of late, contrary to this understanding and long established practice, shipments from the west have been tendered by western to eastern lines without provision for the payment by western lines of the bridge transfer charges.

This is to notify you, we will not absorb the Mississippi River Transfer contrary to the provisions of the joint Rate Committee agreement between eastern and western roads on Trans-Mississippi River traffic which provides for the east-bank Mississippi River interchange of such traffic. Shipments billed to us with bridge transfer charges to fol-

low will not be accepted. Our agents, East St. Louis, the Terminal Railroad Ass'n of St. Louis and other transfer instrumentalities have been instructed to be governed accordingly.

[fol. 603] Yours truly, Baltimore & Ohio Southwestern R. R., by Edward Hart, Jr., W. G. F. A. Chicago & Alton R. R., by Ed Keane. Chicago & Eastern Illinois R. R., by T. O. Jennings. Chicago, Peoria & St. Louis R. R., by C. D. Whitney. Cleveland, Cincinnati, Chicago & St. Louis Ry., by S. A. Townsend. Illinois Central R. R., by F. H. Law, A. G. F. A. Louisville & Nashville R. R., by John Fitzgerald. Southern Railway, by R. C. Campbell. Toledo, St. Louis & Western R. R., by R. L. Dove. Vandalia R. R., by Geo. W. Davis. Wabash R. R., by C. K. Stinson

cc. C. W. Galligan, G. F. A., C. & A. R. R. Geo. H. Crosby, A. F. T. M., C., B. & Q. R. R. S. H. Johnson, A. F. T. M., C., R. I. & P. Ry.

[fol. 604] Terminal Railroad Association of St. Louis

St. Louis, August 19, 1914.

Mr. Ed Keane, G. F. A. C. & A. R. R.; Mr. Wm. Gray, G. F. A. C. B. & Q. R. R.; Mr. E. J. O'Neill, G. A. C. R. I. & P. Ry.; Mr. W. W. Miller, G. F. A. M. K. & T. Ry.; Mr. C. E. Perkins, F. T. M. Mo. Pac.-St. L. I. M. & S. Ry.; Mr. J. D. Watson, A. F. T. M. St. L. S. W. Ry.; Mr. F. C. Reilly, A. F. T. M. St. L. & S. R. Ry.; Mr. C. H. Stinson, G. F. A. Wabash R. R.

Gentlemen: We have been furnished with a copy of letter dated August 17th, wherein the Eastern Railroads serve notice that they will decline to accept traffic tendered them not billed in accordance with the Joint Rate Committee agreement.

As our inability to identify this traffic will make it necessary for us to handle cars to East St. Louis and tender them to Eastern roads, rejection by the Eastern roads will result in its being necessary for us to perform considerable extra service.

To overcome this we must ask that you discontinue delivering us business upon which you have heretofore paid transfer, unless you authorize the payment of transfer charges or arrange with Eastern roads for the withdrawal of their notice.

Our storage space is extremely limited and if cars are set back by our Eastern connections it will become necessary for us to return them to Western roads with all extra charges following.

Will you kindly acknowledge receipt, and oblige,

Yours truly, W. C. Stith, Traffic Manager.

[fol. 605] August 19, 1914.

Messrs. Edw. Hart, Jr., B. & O. S. W. R. R., St. Louis; Edw. Keane, A. G. F. A. C. & A. R. R., St. Louis; T. O. Jennings, G. F. A. C. & E. I. R. R., Chicago, Ill.; C. D. Whitney, G. F. A. C. P. & St. L. R. R., St. Louis; S. A. Townsend, D. F. A. C. C. C. & St. L. Ry. St. Louis; F. H. Law, A. G. F. A. I. C. R. R., St. Louis; John Fitzgerald, Supt. Termls. L. & N., St. Louis; R. A. Campbell, G. F. A. Sou. Ry., St. Louis; R. L. Dore, A. G. F. A. T. St. L. & W., St. Louis; G. W. Davis, G. F. A. Vandalia R. R., St. Louis; C. H. Stinson, G. F. A. Wahbash R. R., St. Louis.

Gentlemen: I am in receipt of your joint letter of August 17th, with reference to the absorption of the St. Louis river transfer. We have no information as to the understanding that the Western Lines would continue to absorb the bridge transfer when the East St. Louis basis of rates was extended to St. Louis. There is no reason, in the absence of such an understanding, why the western lines should absorb the river transfer on all business passing through St. Louis, and we have concluded that since your rates apply to and from either bank of the river, we would continue to absorb the bridge transfer on west-bound business, but would expect the east side lines to absorb the transfer on eastbound shipments, and our agent has been instructed that where rates are based on the St. Louis combination to assess our charges based on the full St. Louis rate.

With reference to the statement that you will refuse shipments which are billed with the bridge charges to follow, I beg to call your attention to Section 7 of the Interstate Commerce Act, which reads as follows:

"Section 7. Continuous Freights.—That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break in bulk, stoppage or interruption made by such [fol. 606] common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this Act."

In the event that shipments are refused, we will be compelled to notify the consignors or consignees in order that they may furnish disposition.

Yours truly, (Signed) W. W. Miller.

CC. Messrs. C. W. Galligan, G. H. Crosby, S. H. Johnson, E. J. O'Neill, C. E. Perkins, J. D. Watson, W. Gray, W. Stith, F. C. Reilly, A. R. Brashear.

[fol. 607] Terminal Railroad Association of St. Louis,
Traffic Department

File 8842. St. Louis, September 1, 1914.

Mr. W. W. Miller, G. F. A. Missouri, Kansas & Texas Railway, St. Louis, Missouri.

Dear Sir:

Cars	2253	G. A. T. L.	your	St. Louis	waybill	OA 1551,
	2082	P. T. L.	"	"	"	OA 1665,
	11122	M. K. & T.	"	"	"	OA 1671,
	60729	"	"	"	"	OA 1629,

2218	G. A. T. X.	your St. Louis	waybill	OA 1576,
7005	S. A. & A. P.	" "	"	A- 465,
65313	M. K. & T.	" "	"	OA 1501,
41996	I. C.	" "	"	OA 1541,

have been turned back to us by the Vandalia Railroad in accordance with that Company's notice of August 17th, because of failure of your road to authorize payment of River transfer.

These cars, together with cars 45205, C. B. & Q., your waybill OA-1551 and 1814, G. A. T. L. your waybill OA-1575, turned back to us by the Big Four Railway, concerning which we wrote you August 31st, are being returned to your road with all charges following, per our letter of August 19th.

Yours truly, (Sgd.) W. C. Stith, Traffic Mngr.

[fol. 608] 3. September 2, 1914.

Mr. W. C. Stith, T. M., Terminal R. R. Ass'n of St. Louis, St. Louis, Mo.

Dear Sir: Acknowledging yours of September 1, relative to the following cars, which have been returned by the Vandalia road because of failure of the M. K. & T. to authorize payment of river transfer charge:

2253	G. A. T. L.	2218	G. A. T. X.
2082	P. T. L.	7005	S. A. & A. P.
11122	M. K. T.	65313	M. K. T.
60729	M. K. T.	41996	I. C.

We have previously advised that we are familiar with the notice which the eastern lines have filed, with reference to the absorption of the St. Louis river transfer, and there is no change in our position, as we do not understand that the Vandalia can legally refuse shipments which are in transit. We cannot accept the return of these shipments, and you should insist upon the Vandalia accepting and forwarding as billed. In the event they decline, please advise and the matter will be taken up with the consignees for authority to divert to lines which will handle without delay.

Yours truly, (Sgd.) W. W. Miller.

2-3.

[fol. 609] St. Louis, September 3, 1914.

Mr. W. W. Miller, G. F. A. Missouri, Kansas & Texas Ry., St. Louis, Missouri.

Dear Sir: We have your letter of September 2nd, file 3, having reference to eight cars rejected by the Vandalia Railroad because of failure of the Missouri, Kansas & Texas Railway to authorize payment of river transfer charges.

Your road had advance notice that the Vandalia would not accept these shipments unless river transfer charges up to East St. Louis was allowed and we notified you August 19th that owing to our inability to identify the shipments it would be necessary to tender them to Eastern roads and in the event of their rejection we would return cars to Western roads with all charges following.

We are in no manner responsible for the extra service that has been performed, nor for the controversy that occasioned it.

Our records are perfectly clear and there is no reason why we should be burdened as the result of differences between our connections. There is nothing to be gained through the persistent delivery of these cars to us, since the Vandalia will not accept them from us, and it will be our purpose to bill against the M. K. & T. Ry. for switching at tariff rates for all service performed in shunting the cars back. This applies also to the two cars rejected by the Big Four Railway which have been given back to you.

Kindly acknowledge receipt.

Yours truly, (Sgd.) W. C. Stith, Traffic Manager.

[fol. 610] 3-949-1. September 4, 1914.

"By messenger."

Mr. W. C. Stith, T. M., Terminal R. R. Ass'n of St. Louis, St. Louis, Missouri.

Dear Sir: Your letter of September 3rd received.

The notices which the Eastern lines have given to the west side roads who have declined to pay the Mississippi

River transfer charges on shipments destined to points east, to which the rates from St. Louis and E. St. Louis are the same, has been answered by this company, and I am sending you herewith a copy of our answer. The M. K. & T. Ry. is not responsible for the extra service that is being performed on these shipments, as eastern roads in whose care the shippers consigned the shipments have no legal right to decline to accept them.

Our records are equally clear, and we must insist upon the cars being delivered to our connections as routed, and will further insist upon their acceptance. We will decline to pay any bills presented to our company for extra service, as such bills should be presented to lines over which the shipments are routed, and who refused to accept same.

I wrote you fully on this subject under date of August 31st, and there has been no change in our position since my letter of that date was written.

Yours truly, (Sgd.) W. W. Miller.

2-3.

cc. Messrs. A. R. Brashear, H. Bierman, E. J. O'Neill, F. C. Reilly, H. H. Adams, C. D. Whitney.

[fol. 611] St. Louis, Mo., October 6, 1914.

5-949-1

Mr. A. R. Brasher, Agent, St. Louis, Missouri.

DEAR SIR: This will confirm telephone conversation yesterday afternoon in which I instructed that arrangements be made for the immediate forwarding, bridge toll guaranteed under protest subject to later adjustment as between lines in interest, of all shipments then being held on your terminals account refusal of east side lines to receive them with the bridge toll following as advances.

Please make sure that connecting line transfer, in each case, carries the following notation:

"Bridge Company's Transfer charges guaranteed under protest."

This will serve to release all loads which were being detained, and will prevent further interruption in the move-

ment of traffic through this gateway. This course was determined upon purely to avoid the serious consequences to the shipping public of the delays occasioned by the stand taken by the Eastern lines.

Yours truly, (Signed) W. W. Miller.

2-5.
cc. H. B.

[fol. 612] Missouri, Kansas & Texas Railway Company

St. Louis, Mo., August 31, 1914.

File 2-949-1.
Messenger.

Mr. W. C. Stith, T. M. Terminal Railroad Assn., Saint Louis, Mo.

Dear Sir: This will asknowledge receipt of your letter of even date concerning PTL. 1010, MK. & T. 2847 and U. P. 74012, which we instructed you to deliver to the C. P. & St. L. Ry.

I am quite familiar with the notice which the C. P. & St. L., together with other eastern lines, served upon you on August 17th. I sent you a copy of my reply of August 19th which fully outlines our position. I have just talked with Mr. Whitney over the telephone and he advises that he has stated to you that he stands ready to accept these shipments and pay the river transfer making daily settlement if necessary. Our connection with these shipments ceased when we delivered the business to you at St. Louis. We undertook, however, upon being advised by you that shipments had been refused by the connections in whose care they had been routed, to ask the consignees or consignors for disposition. This they have given and we have transmitted their instructions to you. I can only reiterate the instructions already given and ask that you deliver the several shipments in question to the C. P. & St. L. without further delay. In the event there is any claim for loss or damage by reason of delay after shippers' instructions have been placed with you, the Terminal Company will be held responsible.

I have instructed our agent not to accept the return of these shipments. If it is the desire of the eastern lines

to discontinue handling this traffic, they should place an embargo in the regular way.

Yours truly, W. W. Miller.

cc. A. R. Brasher, H. Bierman, E. J. O'Neill, F. C. Reilly, H. M. Adams, C. D. Whitney.

[fol. 613] Chicago, Peoria & St. Louis Railroad Co.

St. Louis Bridge on Through Business.

St. Louis, Mo., Sept. 1, 1914.

Mr. W. W. Miller, G. F. A. M. K. T. Ry., St. Louis, Mo.;
Mr. C. E. Perkins, F. T. M., Mo. Pac. Ry., St. Louis, Mo.;
Mr. F. C. Reilly, F. T. M., Frisco Ry., St. Louis, Mo.;
Mr. E. J. O'Neil, G. —., C. R. I. & P. Ry., St. Louis Mo.

GENTLEMEN: Referring to the joint notice dated St. Louis, August 17th and signed by the eastern lines to the effect that eastern lines would not absorb St. Louis River Transfer on through business.

Please cancel our signature to that notice. Effective at once, the position of this Company is as follows:

Where western lines route through business via St. Louis and the C. P. & St. L. and its connections, and covered by through tariff from point of shipment to destination, western lines will make delivery to us at East St. Louis, western lines absorbing the river transfer.

On through traffic, through rate being made by using the tariff rate from St. Louis as published by this Company or its agent, the C. P. & St. L. will on eastbound traffic absorb river transfer. This means that wherever rate from St. Louis and East St. Louis to point east thereof, is the same, the C. P. & St. Louis absorb the river transfer.

Wherever the through rate is a combination of tariff to East St. Louis and tariff east thereof then western line makes delivery in East St. Louis, western line absorbing transfer.

On westbound traffic the C. P. & St. L. will use the same principle, that is to say, where combination is on East St. Louis, western lines will absorb river transfer.

Please acknowledge receipt and say if this meets your view of the situation.

Yours truly C. D. Whitney, Traffic Manager.

[fol. 614] Tower Grove, 9-9-14.

Agt. Van East St. Louis.
B. B. H. UD.

Tracer 40172 my W. B. 678 Sept. 5th C. B. & Q. 118504 staves Jewett, Ill., set back by Vandalia rate based on C. & E. I. Tariff 2800 Frisco 710 D to which Vandalia is a party I. C. C. Concurrence FX 3 No. 7 rate applies both from St. Louis and East St. Louis. We will not authorize transfer. It is up to the Terminal to set car back to Van File H.

H. K. Robinson.

4 P. M.

F. C. R. Pls. note above copies of Wires and billing attached.

H. M. R.

Copy

H. M. R. St. Louis, 9-9-14.
Personal.

Your W. B. 678 Sept. 5 118504 Q. Staves from your line billed to Jewett, Ill., Via Van. Set back by that line account River Transfer not being taken care of by the Frisco. Advise Dispn at once confirm phone message your Mr. Rick this am tracer 40172.

B. B. H.

3:30 P M.

[fol. 615] Terminal Railroad Association of St. Louis

File 8842. Saint Louis, September 11, 1914.

Mr. F. C. Reilly, A. F. T. M., St. Louis & Francisco R. R., St. Louis, Mo.

Dear Sir: We have your letter of the 10th inst., having reference to the handling of cars turned back to us by our eastern connections because of failure of the Frisco Railroad to authorize payment of river transfer charges.

These cars were declined by Eastern roads after due notice was served on August 17th; we have no part in the controversy that caused their rejection and do not attempt to justify the action of the carriers on either side of us.

Our position is this: Having been advised that the Eastern roads will not accept under certain conditions it is the duty of the Frisco Railroad, rather than the Terminal Railroad Association to hold the shipments until practicable forwarding instructions are furnished.

We have no facilities for holding shipments that are se-t back to us and feel that you should hold the cars until you are in position to bill them in such a manner that they will be accepted by eastern roads.

The particular cars that have already made a round trip movement, being readily identified, will not again be accepted by us unless arrangement for payment of all charges that have and will have accrued to us is made.

Kindly advise further.

Yours truly, W. C. Stith, Traffic Manager.

[fol. 616] Terminal Railroad Association of St. Louis

Meeting of the Board of Directors

St. Louis, Mo., September 14, 1914.

At a stated meeting of the board of directors of the Terminal Railroad Association of St. Louis, held in the office of the association, in St. Louis Union Station, at ten o'clock a. m., this day, a quorum was present, as follows:

Mr. E. P. Bracken,
Mr. F. H. Britton,
Mr. J. M. Davis,
Mr. John Fitzgerald,
Mr. T. B. Hamilton,
Mr. Henry Miller,
Mr. W. C. Nixon,
Mr. W. L. Park,
Mr. E. J. Pearson,
Mr. T. C. Powell,
Mr. A. Robertson,
Mr. C. E. Schaff,
Mr. A. E. Sweet,
Mr. W. S. McChesney, Jr.

Mr. Hadley Baldwin, superintendent, St. Louis Division, and Mr. S. A. Townsend, division freight agent, Cleveland,

Cincinnati Chicago & St. Louis Railway Company, were also present.

Mr. Julius S. Walsh, Chairman of the board, presided as Chairman of the meeting.

Approval of Minutes

The minutes of a meeting of the board of directors, held July 13, 1914, and minutes of meetings of the executive committee, held July 13th and July 27th, 1914, printed copies of same having been furnished all members, were approved for record, reading being waived.

[fol. 617] Operating Expenses—Discontinuance of Depreciation Charges

Upon motion, duly seconded, and by a majority vote, it was

Resolved: That the board of directors approves of, accepts and hereby grants authority requested in recommendation of the executive committee as to—

Temporary discontinuance of depreciation charges on Eads and Merchants bridges and elevated structures.

Terminal Transfer Charges Between East and West Side Lines

The president submitted the following:

"September 11, 1914.

To the Board of Directors Terminal Railroad Assn. of St. Louis.

GENTLEMEN: In the interchange of traffic between eastern and western lines through the St. Louis gateway, it has been the custom for the western lines to bear the expense of river transfer wherever the rate of the western line applied to the east side of the river. This practice, it is claimed by the eastern roads, is in accordance with an understanding reached between the east and west side lines at the time the St. Louis, proper, rate was adjusted from and to the east, and has been in full effect since that time.

Recently some of the western lines have tendered business to eastern lines, retaining all the earnings up to St. Louis,

thus requiring the eastern lines to pay the cost of transfer. To this the eastern lines object, and after conference among themselves notified the western lines and the Terminal Railroad Association, under date August 17, 1914, that they would decline to receive such traffic from the western lines unless the river transfer expense was paid by the western lines. A copy of this notice is attached hereto.

At the conference of eastern lines, the representative of the Terminal Association endeavored to make it clear that it was impossible for this association to determine whether traffic from western lines is billed in accordance with the [fol. 618] understanding referred to. Being unable to identify the traffic included in the notice, it is necessary for the Terminal Association to handle cars to East St. Louis and tender them to eastern roads, although the same would undoubtedly be declined by the eastern lines, requiring their return to the west side for delivery to lines from which received.

Written protest was filed with the eastern lines when their notice was received, and advice of same given western lines, with the request that they discontinue delivering us business upon which western lines had theretofore paid transfer, unless they authorize the payment of river transfer charges or arrange with eastern lines for withdrawal of their notices.

One of the eastern lines (C. P. & St. L. Ry.) has given written advice of the withdrawal of its notice.

In the meantime there has been some traffic routed in care of other east side lines, which has been refused. These cars have been returned to the west side lines from which received. In some cases cars have been passed between the Terminal and its western connections a number of times before finally being disposed of either by changing the routing or the destination of the property.

In several instances cars have been accepted by eastern lines with the river transfer following. Eastern lines have forwarded such cars, but have eliminated our transfer charges from the billing and told us to look to western lines, whose charges we have already paid, for the transfer. This we have declined to do, on the ground that, having accepted the cars with river transfer charges and forwarded same, we hold them responsible for our charges; this being the universal practice.

Our apprehension is that the trouble between our east and west side friends, to which we are in no way a party, will become a matter of public information, especially among shippers who now route through this gateway, and will result in injury to it as a channel for the movement of through trans-river business.

In the treatment of this question we have had in view only the protection of our revenue and the avoidance of anything that might prove detrimental to the gateway; we have at all times pleaded to be kept out of the controversy, and expressed the hope that the differences might be speedily adjusted.

The controversy will, I fear, embarrass the Terminal Association and be detrimental to the interests of this gate- [fol. 619] way as a channel for the movement of through business, if allowed to be prolonged. The question is therefore presented to the Board for consideration and such action as it deems proper.

Respectfully submitted.

(Signed) W. S. McChesney, Jr., President."

The notice from the eastern lines is as follows:

Baltimore & Ohio Southwestern Railroad, Chicago & Alton Railroad, Chicago & Eastern Illinois Railroad, Chicago, Peoria & St. Louis Railroad, Cleveland, Cincinnati, Chicago & St. Louis Railway, Illinois Central Railroad, Louisville & Nashville Railroad, Southern Railway, Toledo, St. Louis & Western Railroad, Vandalia Railroad, The Wabash Railroad.

St. Louis, Mo., August 17, 1914.

Messrs. Ed. Keane, A. G. F. A., C. & A. R. R.; Wm. Gray, G. F. A., C. B. & Q. R. R.; E. J. O'Neill, G. A., C. R. I. & P. Ry.; W. W. Miller, G. F. A., M. K. T. Ry.; C. E. Perkins, F. T. M., Mo. Pac., St. L. I. M. & S. Ry.; J. D. Watson, A. F. T. M., St. L. S. W. Ry.; F. C. Reilly, A. F. T. M., St. L. & S. F. Ry.; C. H. Stinson, G. F. A., Wabash Ry.; W. C. Stith, T. M., Term'l R. R. Assn., St. Louis, Mo.

Gentlemen: It was understood when St. Louis rates to and from C. F. A., Trunk Line and New England territories

were published in response to demands of St. Louis commercial interests that Trans-Mississippi River traffic would continue to be handled on the East St. Louis basis.

Of late, contrary to this understanding and long established practice, shipments from the west have been tendered by western to eastern lines without provision for the payment by western lines of the bridge transfer charges.

[fol. 620] This is to notify you, we will not absorb the Mississippi River transfer contrary to the provisions of the Joint Rate Committee agreement between eastern and western roads on Trans-Mississippi River traffic which provides for the east-bank Mississippi River interchange of such traffic. Shipments billed to us with bridge transfer charges to follow will not be accepted. Our Agents, East St. Louis, the Terminal Railroad Ass'n. of St. Louis and other transfer instrumentalities have been instructed to be governed accordingly.

Yours truly, Baltimore & Ohio Southwestern R. R., (Signed) by Edward Hart, Jr., W. G. F. A. Chicago & Alton R. R., (Signed) by Ed. Keane, A. G. F. A. Chicago & Eastern Illinois R. R., (Signed) by T. O. Jennings, G. F. A. Chicago, Peoria & St. Louis R. R., (Signed) by C. D. Whitney, Traffic Manager. Cleveland, Cin., Chicago & St. Louis Ry., (Signed) by S. W. Townsend, D. F. A. Illinois Central R. R. (Signed) by F. H. Law, A. G. F. A. Louisville & Nashville R. R. (Signed) by John Fitzgerald, Supt. Terminals. Southern Ry., (Signed) by R. A. Campbell, G. F. A. Toledo, St. Louis & Western R. R., (Signed) R. L. Dore, A. G. F. A., Vandalia R. R., (Signed) by G. W. Davis, G. F. A., Wabash R. R., (Signed) by C. H. Stinson, G. F. A."

Copy to C. W. Galligan, G. F. A., C. & A. R. R., Geo. H. Crosby, F. T. M., C. B. & Q. R. R., S. H. Johnson, A. F. T. M., C. R. I. & P. Ry.

The matter was given consideration, and, upon motion, duly seconded, and unanimously voted, it was

"Resolved: That the question of payment of Terminal [fol. 621] Line charges on eastbound business exchanged between the western and eastern lines through the St. Louis

gateway is a question to be finally settled by the traffic officials of the interested lines, and that, pending such final settlement, the president be, and hereby is, directed to notify the western lines that, unless Terminal transfer charges on eastbound business were guaranteed by the delivering lines, such business would be refused.

Alton & Southern Railway

The president referred to previous communications addressed to the board relative to the organization and construction of the Alton & Southern Railway, and stated that this Company now appears to be ready for business, having issued a tariff of charges.

Upon motion, the meeting adjourned.

C. A. Winnedge, Secretary.

[fol. 622] Copy

A-1672-D. Sept. 16, 1914.

Diversion.

Mr. J. W. Graham, A. G. F. A. T. St. L. & W. R. R., Toledo, Ohio.

Dear Sir: This will acknowledge receipt of your letter Sept. 11th, file D-610-930 addressed to Mr. Stanage.

I fail to see how you expect to support the position which you have taken. The facts in the case are 10 cents per 100 lbs. to East St. Louis, Ill. 11 cents per 100 pounds. Your rate from St. Louis and East St. Louis to Herrick, Ill. is 6 cents per 100 lbs.

From the foregoing, you will plainly see that the combination of locals on St. Louis makes the correct rate and that is the basis upon which we demand settlement.

Yours truly, F. C. Reilly, A. F. T. M.

cg/w.

Toledo St. Louis & Western Railroad Company

File D-610-930. Toledo, Ohio, September 11, 1914.

Mr. B. H. Stanage, A. G. F. A., Frisco R. R., St. Louis, Mo.

Dear Sir: I am enclosing a copy of transfer from your line covering L. S. & M. S. 85189, staves from Linstead,

Mo. destined Herrick, Ill. on which your agent at St. Louis insists that your line be allowed your local rate to St. Louis plus the bridge toll. Your tariff 2131-A names a local rate of 11 cents to East St. Louis and we do not think that your line should be allowed in excess of this proportion.

Please investigate and advise.

Yours truly, (Signed) J. W. Graham.

AGFA.

[fol. 623] Saint Louis, September 11, 1914.

Mr. Geo. F. Randolph, Vice Pres. B. & O. R. R., Baltimore, Maryland; Mr. D. T. McCabe, Vice-Pres. Pennsylvania Lines, Pittsburgh, Pa.; Mr. C. J. Brister, Traf. Mgr. New York Central Lines, Cincinnati, Ohio.

GENTLEMEN: For convenient reference, I attach copy of my letter of July 21, 1911. Various conditions arose which made it impossible to have the conference at that time.

Conditions have now arisen, due to marked difference of opinion between the eastern and western lines over the question of interchange at Saint Louis and the absorption of Terminal line charges. The question is a serious as well as an important one, and it is apparent that it cannot be settled by other than the highest traffic officers.

I have been requested by the other members of the Committee to ask for a conference at an early date. While this communication is addressed only to the officers of the Baltimore & Ohio; Pennsylvania; and New York Central Lines, it is of course understood that the officers of any other lines whom you might desire to have present would be welcome.

May I ask that this be given prompt consideration and as early as possible after September 28th suggested?

We have definite engagements with the Missouri Commission which will take the most of our time until after the 26th.

If it would better suit your convenience, I believe the members of our committee would be glad to meet you in New York.

Very truly yours, Mr. C. G. Burnham, V. P., C. B. & Q. R. R., Chicago, Ill.

cc. Mr. J. M. Johnson, Mo. Pac. Ry., St. Louis.; Mr. C. Haile, V. P., M. K. & T. Ry., St. Louis; Mr. F. A. Leland.

[fol. 624] September 11th, 1924.

File A-1672.

Mr. W. C. Stith, Traffic Manager, Terminal Railroad Assn. of St. Louis, Saint Louis, Mo.

Dear Sir: I have yours even date with further reference failure of the Terminal Railroad Association of Saint Louis to deliver to connections in East St. Louis certain carload business tendered our connection the Terminal Railroad Association of Saint Louis under their authorized published and filed tariffs to eastern destinations.

As a common carrier and publishing rates as indicated in our former letters, I cannot understand the logice of your refusal to accept business tendered the Terminal Railroad Association of St. Louis on combination of Saint Louis to destination rates. Of course you know your legal responsibility and it is needless for me to add we will hold our immediate connection; that is, the Terminal Railroad Association of St. Louis and your eastern connections responsible for any and all delays occasioned by methods pursued by your Company in rejecting any carloads tendered by our lines.

We appreciate your position and will be glad indeed to try to assist you towards a commercial operating condition if we are asked to help solve the problem, but cannot understand why you permit your lines to be dominated by eastern roads in refusal of freight when you must know your tariffs cannot be interpreted by any one other than explained above and in previous correspondence.

We only ask you to handle business as a common carrier at your published St. Louis to destination rates. If you are a party to tariffs and have trouble with your eastern connections about the tariffs or rates shown therein, it is a matter that concerns the issuing lines and not the public or patronizing connecting roads that tender you business.

Yours truly, F. C. Reilly.

[fol. 625] DH 4186

Y. St. Louis, September 12th, 1914.

Paragon Cooperage Co., Fort Wayne, Indiana:

Grizzle & Sons here have copy bill lading Burlington car one eighteen five naught four sold to you and consigned Jewett, Illinois care Vandalia. On account Vandalia refusing pay river transfer St. Louis although their rates from St. Louis same as from East St. Louis, Vandalia will not accept car. Have tendered to them four times. If you wish reconsign regular way wire quick reconsigning instructions and will see car delivered some other road that can and will handle promptly to destination.

F. C. Reilly.

10:15 A. M.

Copy

DH ANS MGR.

Fort Wayne, Ind., Sept. 12th, 1914.

F. C. Reilly, St. Louis, Mo.:

Your wire this date Reconsign Burlington one eighteen five naught four to Arbuckle Brothers, Jay Street Terminal, Brooklyn, N. Y., Lightorage free via cheapest route. Show full routing on new Blading.

Paragon Cooperage Co.

[fol. 626] Copy

Terminal Railroad Association of St. Louis

File 8842. St. Louis, Mo., September 16, 1914.

Mr. Ed. Keane, A. G. F. A., C. & A. R. R.; Mr. Wm. Gray, G. F. A., C. B. & Q. R. R.; Mr. E. K. O'Neill, G. A., C. R. I. & P. Ry.; Mr. W. W. Miller, G. F. A., M. K. T. Ry.; Mr. C. E. Perkins, F. T. M., Mo. Pac.-St. L. I. M. & S. Rys.; Mr. J. D. Watson, A. F. T. M., St. L. S. W. Ry.; Mr. F. C. Reilly, A. F. T. M., St. L. & S. F. R. R.; Mr. C. H. Stinson, G. F. A., Wabash R. R.; St. Louis, Mo.

Gentlemen: Referring to our letter of August 19th, concerning notice served by East Side roads, outlining the

treatment of river transfer on traffic interchanged from Western connections to Eastern Lines.

By direction of our President, our operating department has this date issued the following restriction:

"Effective at once, we will refuse to accept cars destined to East Side Lines unless our charges are guaranteed by the delivering line. Cars tendered in violation of this notice will be returned. We will not take cars in transit."

For your information.

Yours truly, (Sgd.) W. C. Stith, Traffic Manager.

[fol. 627] Copy

Terminal Railroad Association of St. Louis

Meeting of Executive Committee

St. Louis, Mo., September 17, 1914.

At a called meeting of the resident members of the executive committee of the board of directors of the Terminal Railroad Association of St. Louis, held in the office of the association, in St. Louis Union Station at 12:30 o'clock p. m., this day, a quorum was present as follows: Mr. F. H. Britton, Mr. Henry Miller, Mr. T. B. Hamilton, Mr. E. J. Pearson, Mr. W. C. Nixon,

Mr. W. S. McChesney, Jr., President, presided as chairman of the meeting.

Terminal Transfer Charges Between East and West Side Lines

The President submitted the following:

"September 17, 1914.

To the Executive Committee of the Board of Directors
Terminal Railroad Assn. of St. Louis.

GENTLEMEN: At a meeting of the Board held on Monday last, I presented a letter advising of the controversy existing between the east and the west side lines relative to the absorption of the trans-Mississippi charges. After considering the matter the Board directed that I issue notice to the

west side lines that we would not receive cars destined to east side lines unless Terminal transfer charges were guaranteed. Pursuant to this resolution, such notice has been issued; and while in a way we are protected, inasmuch as we do not perform the service without a guarantee of our charges, yet this action will cause delay to the movement of traffic, through the St. Louis gateway, resulting in a congestion, and if it becomes generally known that such condition exists here, will bring about a diversion of the traffic to other gateways, which will seriously affect the Terminal Association.

[fol. 628] This matter is of such importance that I bring it to your attention with a view of seeing if some action cannot be taken that will bring about an adjustment, and to this end I have prepared the following letter which I will submit, with your approval, to each member of the Board, suggesting that a conference of executive officers be called:

'At a meeting of the Board of Directors of the Terminal Association held on the 14th instant, the following resolution was adopted:

'Resolved: That the question of payment of Terminal line charges on eastbound business exchanged between the western and eastern lines through the St. Louis gateway is a question to be finally settled by the traffic officials of the interested lines, and that, pending such final settlement, the President be, and hereby is, directed to notify the western lines that unless Terminal transfer charges on eastbound business were guaranteed by the delivering lines, such business would be refused.'

Notices conforming to this resolution have been issued to west side lines by our traffic and operating departments, but this action does not improve the situation or afford the Association protection either for its traffic or its revenue.

We are apprehensive that a continuation of this controversy between the west and east side lines, to which the Terminal Railroad Association is in no way a party, will result in serious injury to the St. Louis gateway as a channel for the movement of through trans-river business. We are already reliably informed that a large shipment of flour from a Missouri river point, which was intended to be forwarded through this gateway, has been diverted via another

crossing, and the revenue that would have been derived therefrom by the Terminal Association, and presumably by the St. Louis lines which would have handled the traffic, has been lost to them.

The situation is so serious that we fear not only a substantial reduction in the Association's revenue, through diversion of traffic, but also a congestion of facilities arising from an accumulation of refused cars. The controversy is detrimental to the St. Louis gateway and embarrassing to the Association, and steps should be taken to adjust the existing differences without delay.

I suggest, therefore, that a meeting of executive officers of the lines in interest be held, in the Directors' room at Union Station, on Wednesday, September 23, at 10 a. m., at which all lines be authoritatively represented, that the question at issue may be disposed of. Wednesday, the 23rd [fol. 629] instant, is suggested as the date for the proposed meeting, as is seems to me this will give sufficient notice to the lines in interest to enable them to be authoritatively represented; and the matter is of such importance that the meeting should not be delayed.

Respectfully submitted.

(Signed) W. S. McChesney, Jr., President."

The matter was given consideration, and, upon motion, duly seconded, and by a majority vote, it was

Resolved: That the resident members of the executive committee approve of the letter prepared by the president, calling a meeting of the executive officials of St. Louis railroad lines for Wednesday, September 23, 1914, to consider the question of Terminal line charges on business interchanged between the western and eastern lines through the St. Louis terminals, and that, pending a final settlement of the question, notice given the western lines that unless Terminal transfer charges on eastbound business were guaranteed by the delivering lines, such business would be refused, should continue in effect.

Upon motion, the meeting adjourned.

C. A. Vinnedge, Secretary.

[fol. 630] Copy

Messrs. W. C. Stith, Traffic Manager, Terminal Railway Association; C. J. Tansey, President, St. Louis Transfer Company; L. W. Childress, President, Columbia Transfer Company; T. M. Mulvihill, President, Fidelity Transfer Company.

St. Louis, September 18, 1914.

GENTLEMEN:

For many years rates from the West to South and Southeastern Territory have divided at East St. Louis, Ill.

Of late, contrary to this understanding, shipments from the West have been tendered to Southern lines without provision for the payment by western lines of the transfer charges St. Louis to East St. Louis.

This is to notify you we will not absorb the Mississippi River Tarnsfer contrary to the understanding which has been in effect for so many years. Shipments billed to us with such transfer charges to follow will not be accepted. Our agents at East St. Louis, Ill., have been instructed to be governed accordingly.

Yours truly,

Baltimore & Ohio S. W. R. R., Signed by Edward Hart, W. G. F. A. Cleveland, Cincinnati Chicago & St. Louis R. R., Signed by S. A. Townsend. Illinois Central Railroad, Signed by F. H. Law, A. G. F. A. Louisville & Nashville R. R., Signed by John Fitzgerald, Supt. Mobile & Ohio R. R., Signed by W. K. Vandiver, A. G. F. A. Southern Railway, Signed by R. A. Campbell, G. F. A. Chicago, Burlington & Quincy R. R., Signed by W. Gray, G. F. A.

[fol. 631] Chicago, Peoria & St. Louis Railroad Co., Bluford Wilson and William Cotter, Receivers

St. Louis, Mo., Sept. 19, 1914.

St. Louis Bridge on Through Business. File 4166.

Mr. W. W. Miller, G. F. A., M. K. T. Ry., St. Louis; Mr. C. E. Perkins, F. T. M., Mo. Pac. Ry., St. Louis; Mr. F. C. Reilly, A. F. T. M., Frisco Ry., St. Louis, Mo.; Mr. E. J. O'Neil, G. A., Rock Island Lines, St. Louis, Mo.

GENTLEMEN: Referring to my advice to you of September 1st, stating our position on the St. Louis Bridge toll question, beg to hand you copy of letter even date, addressed to Chairman Cameron, which is self explanatory.

Yours very truly, C. D. Whitney, Traffic Manager.

[fol. 632] Chicago, Peoria & St. Louis Railroad Co., Bluford Wilson & William Cotter, Receivers

St. Louis, Mo., September 19, 1914.

St. Louis Bridge on Through Business. File 4166.

Mr. Wm. Cameron, Chairman, St. Louis Eastbound Freight Committee, St. Louis, Mo.

DEAR SIR: Referring to joint notice given the Western Lines under date of August 17th, and referring also to meeting in your office September 1st, at which time this Company gave notice of its withdrawal from the joint notice of August 17th.

There will be a meeting of the Executive Officers in St. Louis on the 23rd inst. to further consider the whole question, and in order that we may attend this meeting with a clean slate, we advise you herewith of the cancellation of our notice of the 1st inst. which restores our original position of August 17th.

Will you please notify all concerned, and oblige,

Yours very truly, C. D. Whitney, Traffic Manager.

[fol. 633] Terminal Railroad Association of St. Louis

File 8842. St. Louis, Sept. 22, 1914.

Mr. Ed Keane, A. G. F. A., C. & A. R. R.; Mr. Wm. Gray, G. F. A., C., B. & Q. R. R.; Mr. E. J. O'Neill, G. A., C., R. I. & P. Ry.; Mr. W. W. Miller, G. F. A., M., K. & T. Ry.; Mr. C. E. Perkins, F. T. M., Mo. Pac.-St. L. I. M. & S. Rys., Mr. J. D. Watson, A. F. T. M., St. L. S. W. Ry.; Mr. F. C. Reilly, A. F. T. M., St. L. & S. F. R. R.; Mr. C. H. Stinson, G. F. A., Wabash R. R., St. Louis, Mo.

GENTLEMEN: We are today in receipt of a letter from Mr. G. D. Whitney, dated Septembeh 19th, cancelling advice given by the Chicago, Peoria & St. Louis Railroad September 1st, with reference to absorption of river transfer on eastbound business.

The Chicago, Peoria & St. Louis Railroad has restored its signature to the joint notice of August 17th, with which all concerned are familiar, and will not accept shipments from Western Roads not billed in accordance with the Joint Rate Committee agreement.

Your truly, W. C. Stith, Traffic Manager.

cc. Edward Hart, Jr., Ed Keane, T. O. Jennings, C. D. Whitney, S. A. Townsend, F. H. Law, John Fitzgerald, R. A. Campbell, R. L. Dore, G. W. Davis, C. H. Stinson.

[fol. 634] Copy

Baltimore & Ohio Southwestern Railroad, Chicago & Alton Railroad, Chicago & Eastern Illinois Railroad, Chicago, Peoria & St. Louis Railroad, Cleveland, Cincinnati, Chicago & St. Louis Railway, Illinois Central Railroad, Louisville & Nashville Railroad, Southern Ry., Toledo, St. Louis & Western Railroad, Vandalia Railroad, The Wabash Railroad

St. Louis, Mo., September 28, 1914.

Messrs. Ed. Keane, A. G. F. A., C. & A. R. R.; Wm Gray, G. F. A., C., B. & Q. R. R.; E. J. O'Neill, G. A., C., R. I. & P. Ry.; W. W. Miller, G. F. A., M. K. T. Ry.; C. E. Perkins, F. T. M., Mo. Pac.-St. L., I., M. & S. Ry.; J. D. Watson, A. F. T. M., St. L. S. W. Ry.; F. C. Reilly, A. F. T. M., St. L. & S. F. Ry.; C. H. Stinson, G. F. A., Wabash R. R.; St. Louis, Mo.

Gentlemen: Referring to notice served on you by the undersigned under date August 17th, 1914, to the effect that Mississippi River Transfer charges on Trans-Mississippi River traffic would not be assumed:

This matter, having been discussed at meeting of eastern and western roads today and no good and sufficient reasons advanced for a change in the existing arrangement which has been in effect for at least twenty-five years, in fact ever since the present facilities for handling traffic through St. Louis and East St. Louis have been in existence and under which the traffic has grown to its present volume and which were in no way changed with the establishment by eastern roads of St. Louis rates to satisfy the demands of the city of St. Louis for rates published specifically to and from St. Louis and which moreover could not be changed without involving other competitive gateways, including all Mississippi River Crossings from Cairo to East Dubuque inclusive, to say nothing of Ohio River and Potomac River Crossings; also the fact that rates east and west of the Mississippi River and North and South of the Ohio River, respectively have been built on the basis of an east or north bank interchange of through traffic, we therefore, pur-

[fol. 635] suant to instructions of our superior officers, reaffirm our notice of August 17th, modified to the extent

that we will accept and forward all shipments tendered, but we will not advance charges in excess of those computed on your rates to East St. Louis as lawfully on file with the Interstate Commerce Commission, nor will we accept on prepaid traffic, prepaid charges less than those computed on the basis of our rates from East St. Louis to destination as lawfully on file with the Interstate Commerce Commission.

Yours truly, Baltimore & Ohio Southwestern R. R., by Edward Hart, Jr. Chicago & Alton R. R., by Ed. Keane. Chicago & Eastern Illinois R. R., by T. O. Jennings. Chicago, Peoria & St. Louis R. R., by C. O. Whitney. Cleveland, Cincinnati, Chicago & St. Louis Ry., by S. A. Townsend. Illinois Central R. R., by F. H. Law. Louisville & Nashville R. R., by John Fitzgerald. Southern Ry., by R. A. Campbell. Toledo, St. Louis & Western R. R., by R. L. Dore. Vandalia R. R., by G. W. Davis. Wabash R. R., by C. H. Stinson.

Copy to C. W. Galligan, G. F. A., C. & A. R. R.; Geo. H. Crosby, F. T. M., C., B. & Q. R. R.; S. H. Johnson, A. F. T. M., C., R. I. & P. Ry.; Geo. J. Tansey, Pres., St. L. Tfr. Co.; L. W. Childress, Pres., Colo. Tfr. Co.; P. M. Mulvihill, Pres., Filedlity Tfr. Co.

[fol. 636] Copy

St. Louis, September 16th, 1914.

H. M. R.
H. O.

Rostrn 237—Effective at once we will refuse to accept cars destined to East Side Lines for road movement unless our charges are guaranteed by delivering lines. Cars tendered in violation of this notice will be returned. We will not take cars in transit.

B. V. Hickman.

St. Louis, Mo., September 28, 1914.

At a meeting of the representatives of the St. Louis lines, held in Room 300, Union Station, at ten o'clock A. M., this day, to consider Terminal transfer charges between east and west side lines, the following were present:

Mr. C. L. Thomas, Freight Traffic Manager, Mr. J. D. Marney, Division Freight Agent and Mr. Edward Hart, Jr., Western General Freight Agent, B. & O. S. W. R. R. Co.

Mr. H. A. Worcester, General Manager, Mr. C. J. Brister, Traffic Manager, and Mr. S. A. Townsend, Division Freight Agent, C., C., C. & St. L. Ry. Co.

Mr. S. G. Lutz, General Traffic Manager, Mr. W. H. Abel, Assistant Passenger Traffic Manager, and Mr. E. Keane, Assistant General Freight Agent, Chicago & Alton R. R. Co.

Mr. W. C. Hurst, General Manager, and Mr. C. D. Whitney, Traffic Manager, C., P. & St. L. Ry. Co.

Mr. E. S. Stephens, Assistant Gen. Freight Agent, and Mr. T. O. Jennings, General Freight Agent, C. & E. I. R. R.

Mr. F. H. Ustick, General Superintendent, and Mr. Wm. Gray, General Freight Agent, C., B. & Q. R. R. Co.

Mr. C. C. Cameron, General Freight Agent, and Mr. F. H. Law, Assistant General Freight Agent, Illinois Central R. R. Co.

Mr. John Fitzgerald, Superintendent, L. & N. R. R. Co.

Mr. J. M. Johnson, Vice President, Mr. C. L. Stone, Passenger Traffic Manager, and Mr. C. E. Perkins, Freight Traffic Manager, Missouri Pacific Railway Company.

Mr. W. K. Vandiver, Assistant General Freight Agent, M. & O. R. R.

Mr. C. Haile, Vice-President and Mr. W. W. Miller, General Freight Agent, Missouri and Kansas & Texas Railway Lines.

Mr. A. E. Sweet, General Manager, and Mr. E. J. O'Neill, General Agent, Rock Island Lines.

Mr. R. A. Campbell, General Freight Agent, Southern Ry. Co.

Mr. H. E. Farrell, Vice-President, St. L. S. W. Ry. Co.

Mr. W. B. Biddle, Chief Traffic Officer, Mr. J. A. Middleton, Freight Traffic Manager, Mr. A. Hilton, Passenger Traffic Manager, and Mr. F. C. Reilly, Assistant Freight Traffic Manager, St. Louis & San Francisco Railroad.

Mr. B. C. Stevenson, Vice-President and Mr. R. L. Dore, Assistant General Freight Agent, T., St. L. & W. R. R. Co.

Mr. W. S. McChesney, Jr., President, and Mr. W. C. [fol. 637] Stith, Traffic Manager, Terminal Railroad Assn. of St. Louis.

Mr. D. T. McCabe, Second Vice-President, Mr. T. B. Hamilton, General Manager, Mr. G. W. Davis, General Freight Agent, and Mr. C. B. Sudborough, A. G. F. A., Vandalia Railroad Co.

Mr. W. C. Maxwell, General Traffic Manager, Wabash Railroad.

Mr. W. S. McChesney, Jr., was chosen as Chairman, and Mr. Edward Hart, Jr., as secretary of the meeting.

The following resolution was offered by Mr. C. Haile, Vice-President of the M., K. & T. Ry., and seconded by Mr. W. B. Biddle, Chief Traffic Officer of the St. Louis & San Francisco Railroad:

"In order that the cost of interchange between eastern and western lines at St. Louis and East St. Louis may be equitably divided, it is agreed by the parties here represented that on and after this date the expense of bridge and ferry tolls, or charges, of other transportation companies, between St. Louis and East St. Louis, shall be paid by the line receiving the traffic."

Upon a vote the resolution was defeated, five votes being cast in favor of, and twelve opposed to, its passage. The St. Louis Southwestern Railway did not vote.

Upon motion the meeting adjourned.

Edward Hart, Jr., Secretary.

[fol. 638] St. Louis, Mo., September 29th, 1914.

Messrs. Ed. Keane, A. G. F. A., C. & A. R. R.; Wm. Gray, G. F. A., C. B. & Q. R. R.; E. J. O'Neill, G. A., C. R. I. & P. Ry; W W. Miller, G. F. A., M. K. & T. Ry.; C. E. Perkins, F. T. M., Mo. Pac. Ry.-St. L. I. M. & S. Ry.; J. D. Watson, A. F. T. M., St. L. S. W. Ry.; F. C. Reilly, A. F. T. M., St. L. & S. F. R. R.; C. H. Stinson, G. F. A., Wabash R. R., St. Louis, Mo.

Gentlemen: Referring to our notice to the Terminal Railroad Association and other transfer facilities from St. Louis, Mo. to East St. Louis, Ill., dated September 18th, 1914, which notice we are advised by the Traffic Manager of the Terminal Railroad Association was transmitted to you and which was to the effect that the undersigned railroads would not absorb the Mississippi River Transfer charges on traffic from the west destined to the South and

Southeast contrary to the understanding which has been in effect for so many years and that shipments billed to us with such transfer charges to follow would not be accepted.

This matter was discussed at a meeting of the eastern and western roads September 28th, 1914, and no good and sufficient reasons were advanced for a change in the existing arrangement which has been in effect for at least twenty-five years, in fact, ever since the present facilities for handling traffic through St. Louis and East St. Louis have been in existence and under which the traffic has grown to its present volume.

We therefore, pursuant to instructions of our superior officers, reaffirm our notice of September 18th, modified to the extent that we will accept and forward all shipments tendered, but we will not advance charges in excess of those computed on your rates to East St. Louis as lawfully on file with the Interstate Commerce Commission, nor will we accept on prepaid traffic, prepaid charges less than those computed on the basis of our rates from East St. Louis to destination as lawfully on file with the Interstate Commerce Commission.

[fol. 639] Yours truly, Baltimore & Ohio Southwestern R. R., by Edward Hart, Jr. Cleveland, Cincinnati, Chicago & St. Louis Ry., by S. A. Townsend. Illinois Central Railroad, by F. H. Law. Louisville & Nashville R. R., by John Fitzgerald, Supt. Mobile & Ohio Railroad *Railroad*, by W. K. Vandiver. Southern Railway, by R. A. Campbell.

cc. C. W. Galligan, G. F. A., C. & A. R. R.; Geo. H. Crosby, F. T. M., C. B. & Q. R. R.; S. H. Johnson, A. F. T. M., C. R. I. & P. Ry.; W. C. Stith, T. M., Terminal R. R.; Geo. J. Tansey, Pres., St. L. Tfr. C.; L. W. Childress, Pres., Col. Tfr. Co.; T. M. Mulvihill, Pres. Fidelity Tfr. Co.

[fol. 640] Copy

St. Louis, October 6, 1914.

Confidential.

My Dear Mr. Randolph: I have been giving considerable thought to the controversy between the eastern and

western lines over the division of terminal expenses at Saint Louis.

Since my letter to you of the 29th, we have, as you know, had a joint conference. It is not surprising that not-ing was accomplished. It was a town meeting and, of course, partisan.

Notwithstanding the previous efforts to secure a conference, I have been wondering if we ought to leave it in the present shape, without making a further effort to try and find some common ground on which we can stand.

While we appreciate the fact that the eastern lines are unwilling to add to their terminal expense, and perhaps would not have been put in this position if it had not been for your agreement with the St. Louis business interests, you must admit that the western lines have just cause for seeking a modification of present conditions.

A settlement out of Court would probably prevent some complications.

I shall be glad to have your suggestions.

It is needless to say that the western lines are in earnest about this, and traffic officers and counsel will shortly have another conference to determine finally what steps shall be taken.

I have not conferred with the chief traffic officers of the other lines and do not know whether they would look favorably on a further conference or not, but if you think that anything could be accomplished, by a small committee getting together, I shall be glad to endorse the suggestion. I believe, if it is decided to handle it in this way, that prompt action will be necessary.

Yours truly, (Signed) W. B. Biddle.

Mr. Geo. F. Randolph, Vice-Pres. B. & O. R. R., Baltimore, Md.

cc. Blind to F. C. R.

[fol. 641] Terminal Railroad Association of St. Louis.

October 8, 1914.

Mr. Ed Keane, A. G. F. A., C. & A. R. R.; Mr. Wm. Gray, G. F. A., C. B. & Q. R. R.; Mr. E. J. O'Neill, G. F. A., Rock Island Lines; Mr. W. W. Miller, G. F. A., M. K. & T. Ry.; Mr. C. E. Perkins, F. T. M., Mo. Pac. Ry.; Mr. J. D. Watson, A. F. T. M., St. L. S. W. R. R.; Mr. F. C. Reilly, A. F. T. M., St. L. & S. F. R. R.; Mr. C. H. Stinson, G. F. A., Wabash R. R.

GENTLEMEN: Under date of September 21st we wrote you, enclosing copy of notice served September 18th by the roads handling traffic to the South and Southeastern territory, wherein it was stated that these roads would not accept shipments moving from the West on rates which are the same from St. Louis and East St. Louis unless river transfer charges were authorized by Western roads.

We are now advised by Mr. Gray, his letter dated October 6th, WG file 840-2 that the Chicago, Burlington & Quincy R. R. has withdrawn its signature from this notice.

We give this information as a matter of record.

Yours truly, W. C. Stith, Traffic Manager.

[fol. 642] Copy

The Baltimore & Ohio Railroad Company
Baltimore, Md.

At Chicago, Ill., October 15th, 1914.

MY DEAR MR. BIDDLE: Please pardon my delay in responding to your letter of October 6th. I have been constantly occupied with meetings concerning the advance in rates case which comes before the Interstate Commerce Commission next Monday.

Have been quite familiar with the transfer situation at St. Louis, to which you refer as "terminal expense," for a number of years, including the agreement with the St. Louis business interests, and do not and cannot admit that the western lines have any just cause for seeking modification of the existing conditions. On the contrary, I think some of the western lines are deliberately trying to take

advantage of a situation created and forced upon us by the merchants of St. Louis for the purpose of reducing their expenses without regard to the fact that we have already been forced by the business interests of St. Louis to assume a burden that I do not believe belongs to us.

It is difficult for me to make suggestions, as requested, because I cannot comprehend the attitude of your lines, and particularly that of the M. K. & T. and the Rock Island. You three seem to be the active ones in pushing this matter, and seem to think you are entirely safe regardless of the fact that your competitors reach the East Side with their own rails. Being free from any transfer charge in deliveries to the Burlington at East St. Louis, does it seem to you that roads would exert themselves to favor your line at the expense of transfer charges?

Are you giving the full consideration to the other gateways to the west that should be given in considering this subject?

You will recall a telegram I sent you sometime ago, when it had been reported that western lines were attempting to force us. I am willing to say to you, confidentially, that at that time I started to take steps to give preference to Chicago and Louisville on certain lines of traffic, as against the St. Louis gateway. Your prompt and satisfactory answer withheld it, but I feel quite sure that if your lines persist in the contention you are making and force it to the conclusion you hope for, it will ultimately (possibly not within a year or two) result in efforts to route business by other gateways than St. Louis.

So far as the implied threat to go to the Interstate Commerce Commission is concerned, I am not at all afraid of such action. First, I do not believe they can make a decision such as you seek without opening up the entire question of divisions of through rates into your territory, not only through the St. Louis gateway but other River crossings. Second, I doubt their jurisdiction as to establishing a point of delivery between two connecting common carriers.

Noting your statement that you expect an early meeting of traffic officers, and Counsel, on your side, I can only regard the mention of Counsel as indicating that it is your purpose to take advantage of any legal quibble that you may

have, to force the situation, as Counsel is certainly not necessary between transportation companies for the purpose of establishing points of interchange. This idea in itself does not taste good, nor enlist a friendly co-operation in a matter of joint interest.

[fol. 643] I will be very glad to attend any conference that may be desired by the western lines in interest, and discuss the matter fairly and frankly,—but as to holding out any hope that a result will be reached favorable to your contention, I cannot honestly say that there will be any chance of such result.

As to the necessity for prompt action, you will get very little attention to this matter until after we are through with the Interstate Commerce Commission on the case that opens next Monday, as that is the most important proposition before the railroads of the United States to-day, not only from our standpoint, but also from yours.

Yours truly, (Signed) Geo. F. Randolph.

Mr. W. B. Biddle, Receiver, and Chief Traffic Officer, St. Louis & San Francisco R. R., St. Louis, Mo.

[fol. 644] Copy

Rock Island Lines

Law Department

Chicago, November 18, 1914.

Hon. James S. Harlan, Chairman, Interstate Commerce Commission, Washington, D. C.

Dear Sir: I transmit herewith a communication addressed to you by representatives of the freight traffic departments of the Rock Island, Missouri Pacific, M. K. & T., and St. Louis & San Francisco Companies, relative to the controversy between the east side and west side lines at St. Louis over the absorption of bridge charges on through business; also copies of notices referred to therein, and copy of the brief of the Terminal Railroad Association of St. Louis et al. in the case of United States v. Terminal Railroad Association of St. Louis, now pending in the Supreme Court

upon appeal from the District Court for the Eastern District of Missouri.

By way of further elucidation of the facts stated in the joint letter of these gentlemen to you, I attach a short additional statement of facts, being an excerpt from a letter addressed to me by Mr. S. H. Johnson, Assistant Freight Traffic Manager of this Company.

Yours truly, M. L. Bell, General Solicitor.

MLB-G.

Copy to Mr. J. M. Bryson, Mr. W. F. Evans, Mr. E. J. White.

[fol. 645] Copy

Saint Louis, Missouri, November 5, 1914.

Hon. James S. Harlan, Chairman Interstate Commerce Commission, Washington, D. C.

Dear Sir: At a conference with you September 30, 1914, Messrs. S. H. Johnson and C. E. Perkins brought to your attention informally a situation existing at Saint Louis and East Saint Louis with respect to the Interchange of freight as between eastern and western roads, a disagreement having arisen which resulted in tying up and delaying freight intended for interchange between these lines. At this conference you suggested that the western carriers present you with a written statement of the facts, which they hereby do as follows:

At the present time, and for a number of years past, the West Side Lines have paid the charges for the intermediate service between the East Side and West Side Lines on traffic in both directions; this condition applying both as to carload and less than carload traffic, whether handled by intermediate rail carriers, by team, or otherwise. This practice, while it has heretofore prevailed, has not been satisfactory to the West Side Lines, and is not in harmony with or justified by the decision of the Supreme Court in the case of United States vs. Terminal R. R. Ass'n., and the various proprietary lines (parties to this controversy), 224 U. S. 383, and the final decree of the United States District Court made pursuant thereto. Numerous efforts have been made

to secure meetings with the East Side Lines for the purpose of discussing the situation, and, if possible, reaching an agreement which would be mutually satisfactory. Efforts in this direction having failed, the West Side Lines undertook to force the payment by the East Side Lines of the cost of transfer in one direction, by delivering all freight both carload and less than carload to the East Side Lines through the Terminal Company, or other transportation companies, upon the basis of assessing their full local rate to Saint Louis and allowing the East Side Lines their legally published rate from Saint Louis to destination. The East Side Lines declined to accept freight from West Side Lines so billed, and such shipments as had been delivered to the Terminal Company, or other intermediate transportation companies, were set back to the West Side Lines with the statement that they had been refused by the East Side Lines. Shortly thereafter we received a joint notice signed by various East Side Lines, dated August 17th, copy of which is enclosed. Subsequently, negotiations have been had with the East Side Lines in an effort to secure some adjustment of this contraversy, but without any result other than statements that the West Side Lines would be expected to pay the cost of interchange in both directions. As the matter now stands, the West Side Lines are unable to effect delivery of either carload or less than carload freight to or from the East Side Lines, except upon the basis of payment or guarantee of the charges to the intermediate carrier. [fol. 646] The freight under controversy is covered by three classes of rates.

First, where no through rates from point of origin to destination are in effect, the rates are made on the Mississippi River combination. The rates of the West Lines outside of the so-called 100 mile zone, are the same to and from Saint Louis and East Saint Louis, while the rates of the Eastern Lines outside of the so-called 100 mile zone east of the river, are the same to and from Saint Louis as East Saint Louis; so that in reality there are two points of interchange which can be used each producing the same through rate—the Western Lines contending, however, that inasmuch as the East Side Lines elect to deliver their freight to us at East Saint Louis, insisting that we apply our rate from East Saint Louis to destination, we have the

same right on eastbound freight to make delivery at Saint Louis and insist on their accepting their local rate from Saint Louis to destination.

Second, traffic covered by through rates, which are in most cases, less than the combination of locals. In most cases, through rates divide by allowing the lines east of the Mississippi River their full local rate. As an example, rates between Southwestern Tariff Committee Territory, comprising the states of Oklahoma, Texas, Arkansas and Louisiana on the one hand and Central Freight Association Territory on the other—Rates are constructed on a differential basis, and the East Side Lines are allowed their local rates. They are demanding, however, that they receive in all cases their local rates from East Saint Louis and will not accept the freight based upon their local rates from Saint Louis.

Third, Traffic represented by through rates dividing upon fixed percentages. As an example, on traffic between the Pacific Coast and points in Central Freight Association and Trunk Line Territories. The East Side Lines insist that in all cases the transfer charges be assumed by the West Side Lines.

We desire further to bring to your attention the fact that the East Side Lines in publishing rates on Grain and Grain Products to points in Central Freight Association and Trunk Line Territories, provide that the East Saint Louis rate will apply from Saint Louis on traffic originating at Saint Louis proper, but will not be applied on business originating beyond; in this way attempting to force the delivery point to East Saint Louis, and make a higher rate than their published local on traffic delivered to them at Saint Louis. In this connection please see Joint and Proportional Freight Tariff issued by William Cameron, Agent, his I. C. C. D-70, page 72, covered by reference mark Circle 40:

"These rates are re-shipping rates and will apply from East St. Louis, Madison or Alton via all lines (except as otherwise specifically provided for) on direct through consignments from points in the States of Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Min- [fol. 647] nesota, Missouri (except Saint Louis), Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma,

Oregon, South Dakota, Texas, Utah, Washington and Wyoming. Will not apply from St. Louis, Mo. on direct through consignments."

Likewise on shipments of Load, Antimonial, in pigs, Lead, Pig; Lead, Scrap, Spelter, carloads, destined to various points east of the Mississippi River, rates are published with the following notation.

"From St. Louis, Mo., rates apply only on shipments smelted at that point, and will not apply on shipments from beyond."

(See Local, Joint and Proportional Freight Tariff issued by Wm. Cameron, Agent I. C. C. D-69, page 285).

If the East Side Lines are permitted to continue this basis of rate making, it will simply mean that the local tariff rates will not be available for through shipments, and if it is proper for the East Side Lines to so amend their tariffs, it would seem that the West Side Lines should have the same privilege. This would directly result in a disregard of the Fourth Section, and is an attempt to evade the decision and decree above referred to.

As pointed out above, the interchange between the East Side and West Side Lines, necessitates an intermediate carriage. There are, however, one or two exceptions to this general rule. In the case of the St. Louis & San Francisco Railroad (a West Side Line) and the Chicago & Eastern Illinois Railroad (an East Side Line), the Chicago & Eastern Illinois operates its own freight trains into Saint Louis, Missouri over the rails of the Terminal Railroad Association of Saint Louis under an Operating agreement with that company, connecting directly with the tracks and terminals of the St. Louis & San Francisco Railroad at 23rd Street in Saint Louis, Missouri, operating over the St. Louis & San Francisco tracks to a terminal yard at Tower Grove, also located in Saint Louis, Mo. at which point actual interchange of carload freight and through package merchandise cars is made between the St. Louis & San Francisco Railroad and the Chicago & Eastern Illinois Railroad both on east and westbound business. The Chicago & Eastern Illinois Railroad in availing itself of this advantageous operating condition, does not pass or operate

through East Saint Louis, and has not operating trackage rights or rails to or from East Saint Louis, except on such business as may be tendered or received from the Terminal Railroad Association at Madison, Illinois.

A situation somewhat similar to that of the Chicago & Eastern Illinois Railroad just mentioned, is that of the Burlington Railroad, having its own line in Saint Louis. On the other hand that line receives and handles all freight tendered it by its western connections for points east of Mississippi River, accepting its local rate from Saint Louis [fol. 648] to destination.

Following the suggestion which was made at conference September 30, 1914, the West Side Lines have resumed the delivery of all freight, both carloads and less than carloads, to the East Side Lines, paying or guaranteeing the intermediate charge under protest, a copy of which is herewith submitted, as well as a copy of Brief for Terminal Railroad Association and other defendants in case above referred to, which is now pending on appeal in the Supreme Court of the United States from the final decree of the United States District Court pursuant to mandate of the Supreme Court on the first appeal. This appeal was argued and submitted on the 13th instant. We have not at hand a copy of the Government's Brief.

The East Side Lines referred to are the following: Chicago & Alton Railroad, Chicago & Eastern Illinois Railroad (Wm. J. Jackson and Edwin W. Winter, Receivers), Chicago, Peoria & Saint Louis Railroad, Cleveland, Cincinnati, Chicago & Saint Louis Railway, Illinois Central Railroad, Louisville & Nashville Railroad, Mobile & Ohio Railroad, Southern Railway, Toledo, Saint Louis & Western Railroad, Vandalia Railroad, Wabash Railroad (Edward B. Pryor, Receiver).

The Terminal Companies referred to are the following: Terminal Railroad Association of Saint Louis, East Saint Louis Connecting Railway, Saint Louis Belt & Terminal Railway, Saint Louis Merchants Bridge Terminal Railway, Saint Louis Transfer Railway, Wiggins Ferry Company.

Yours very truly, Chicago Rock Island & Pacific Railway Company, by S. H. Johnson, Its Ass't Freight Traffic Manager. St. Louis, Iron Mountain & Southern Railway Co., Missouri Pacific Railway

Company, by C. E. Perkins, Its Freight Traffic Manager. Missouri, Kansas & Texas Railway Company, by C. Haile, Its Vice-President & Traffic Manager. Saint Louis & San Francisco Railroad, by J. A. Middleton, Its Freight Traffic Manager.

[fol. 649] Copy R T E-H C F.

Mr. S. H. Johnson, Assistant Freight Traffic Manager, Rock Island Lines, Chicago, Illinois.

Dear Sir: I write to acknowledge the receipt of your letter of May 25, file B-18419. Your original letter of November 18 seems to have gotten into other hands and for that reason there has been a delay in its disposition. I will be glad, however, to look into the matter at once and bring it to the attention of the Commission as soon as possible, advising you of the conclusions reached. I regret very much the delay that has ensued.

Yours very truly, James S. Harlan, Commissioner.

[fol. 650] Copy

Telegram

Interstate Commerce Commission

HCF. June 16, 1915.

S. H. Johnson, Rock Island Lines, La Salle Street Station, Chicago, Illinois:

Your letter May twenty five B eighteen four nineteen. Careful consideration your statement seems to indicate that Commission cannot well act without a record made at hearing or without an agreed statement of facts. Can you not prepare such statement and submit to eastern lines for their acceptance or amendment, all lines then joining in laying matter before Commission for decision by us on printed briefs if desired. Confer with eastern lines and answer quickly.

James S. Harlan.

10:55 A. M.

Copy

Western Union Telegram

Chicago, Illinois, June 18, 1915.

Hon. J. S. Harlan, Commissioner Interstate Commerce Commission, Washington, D. C.:

Your Sixteenth St. Louis Bridge Toll matter referred to M. L. Bell our General Solicitor who will endeavor arrange accordance with your suggestion.

S. H. Johnson.

[fol. 651] Copy

Rock Island Lines, La Salle St. Station

Chicago, Ill., May 25, 1915.

File B-18419.
Rate Adjustment: St. Louis Bridge Tolls.

Hon. James S. Harlan, Commissioner Interstate Commerce Commission, Washington, D. C.

My Dear Sir: Please see letter to you November 18th, 1914, from Mr. M. L. Bell, General Solicitor of this Company, enclosing a communication addressed to you by representatives of the Freight Traffic Departments of several of the lines entering St. Louis, including the undersigned, relative to a controversy between the East and West Side lines over the absorption of bridge charges. Without overlooking the fact that you and your brother Commissioners are extremely busy men, I beg to express the earnest hope that you can without too much inconvenience arrange it so that this matter can come to an early head. You understand that in the interim the West Side carriers are suffering inasmuch as they must absorb the bridge toll upon traffic moving in both directions in order to meet the views of the East Side Lines and at the same time prevent a stoppage of the movement of the traffic.

Your kind and early attention will be greatly appreciated by the undersigned and I have no doubt by the representatives of the other St. Louis West Side Lines at interest.

Yours truly, S. H. Johnson.

Copy Messrs. C. E. Perkins, C. Haile, F. C. Reilly, M. L. Bell.

[fol. 652] Copy

Terminal Railroad Association of St. Louis, St. Louis, Mo.

November 30, 1914.

Mr. H. U. Mudge, President Rock Island Lines, La Salle Street Station, Chicago, Ills.

Dear Sir: I have received your letter of the 18th instant, with which you transmit joint communication from the traffic officials of the West Side lines, dated November 5, 1914, relative to the charges of the Terminal Railroad Association for handling east-bound freight received at St. Louis to be transported by the West Side lines to final destination.

It is peculiarly unfortunate that this kind of a matter should have been agitated at this time, when the existence of our Association is being challenged and attacked in the Supreme Court of the United States in a suit brought by the Government under the Sherman Anti-Trust Act, and an effort is being made before the Interstate Commerce Commission to destroy our revenues, our only means of subsistence. The Government, through former Attorney General Edward C. Crow, as special representative, now insists, in the federal litigation, that this Association ought to be dissolved and that no charge should be allowed on traffic passing across the Mississippi River. In a case pending before the Interstate Commerce Commission, brought by the Pulitzer Publishing Company (St. Louis Post-Dispatch), the petitioner is seeking to have all freight rates, irrespective of origin, be the same to St. Louis as to East St. Louis. The position of this Association has ever been that it was entitled to impose a reasonable and uniform charge upon all traffic handled, regardless of the deliverer or recipient; that its tariffs had been filed with the Interstate Commerce Commission and recognized as legal and proper; that questions of the absorption of its charges and of the division of the through rates were addressed along to the transportation carriers; that the law had vested the Interstate Commerce Commission with pri-

mary and exclusive jurisdiction to decide such disputes if the railroads failed to agree; that the United States Courts had no authority or power to pass upon the reasonableness of a rate or an operating practice until the Interstate Commerce Commission had first pronounced judgment.

Both reason and authority bear out these contentions. Section 15 of an Act to Regulate Commerce as now [fol. 653] amended provides "That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this Act, for the transportation of persons or property as defined in the first section of this Act, or that any regulations or practices whatsoever of such carrier or carriers, affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, to determine and prescribe what will be the just and reasonable rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed. * * * The Commission may also, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and prescribe the division of such rates as hereinafter provided, and the — terms and conditions under which such through routes shall be operated, when that may be necessary to give effect to any provision of this Act, and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates, provided no reasonable or satisfactory through route exists."

The Supreme Court of the United States has unequivocally held, in many authoritative cases, that all rate and operating questions must be decided in advance by the Interstate Commerce Commission, and that the Federal Court has no original jurisdiction.

The Supreme Court has further held that companies like this Association were justified in charging for their services, and the fact that the stock in such a company was

owned by the using lines was immaterial. The Court said, "The Union Stock Yards Company is an independent corporation, and the fact, if it be a fact, that most or even all of its stock is owned by the several railroad companies entering Chicago does not make its lines or property part of the lines or property of the separate railroad companies."

We are convinced that the Supreme Court will shortly decide the case brought under the Sherman Anti-Trust Act, now pending before it, and declare in no uncertain terms that the charges of this Association are justified in law and in fact; but it seems to me that the present attempt of the West side lines to claim their contentions justified by their interpretation of a decree of the United States Circuit Judges, not yet approved by the Supreme Court, is entirely premature. The West Side Lines — inconsistent in adopting the views of General Crow, which are opposed to all previous policies and insistencies advanced by them in the [fol. 654] cases now pending before the Interstate Commerce Commission and before the Supreme Court. At least we should wait until the decree of the United States Circuit Judges has been affirmed before it should be cited as an authority.

If the West Side lines are dissatisfied with existing conditions and believe that the East Side lines should pay the charges of this Association on eastbound traffic received by this Association at St. Louis, they may appeal to the Interstate Commerce Commission, the sole tribunal having jurisdiction to hear and decide questions of rate making and traffic handling; or, if they deem it would be a safer policy to adjust matters that do not concern the public, in a private way, the machinery of this organization affords an expeditious and adequate remedy. Paragraph XVIII of the Admission Agreement of October 1, 1889, amended September 21, 1914, and now known as the Reorganization Agreement, provides that where a difference of opinion arises with respect to the practices or operation of this Association, any party to the agreement may demand arbitration for the conclusive settlement of the matters in dispute. This method of adjustment is complete within itself, and no proprietary line need invoke the aid of courts or commissions to vindicate a right or to

remedy a wrong. The reason for this arbitration clause was to preserve the privacy of our affairs and avoid the ventilation of purely family grievances in public, to be food for newspaper criticism.

Obviously, internecine strife is most zealously to be avoided and the consequences feared. The essence and organic principles of our system demand that each proprietary company be treated alike in respect to all things by this Association, and I noted with much concern the statement in the sixth paragraph of the traffic officers' communication, that the officers of this Association were dealing unfairly with the West Side lines. The real situation does not bear out this assertion, and I am sure that whoever formulated it labored under a misapprehension, which you will appreciate in the light of this letter. The officials of this Association are making charges for its services irrespective of the origin of the traffic and of the lines involved. If the West Side lines feel that these charges should be paid by other lines than their own, they may either go to the rate-making body, or have the matter arbitrated as provided in the reorganization Agreement. If their contention be correct, either course will prove efficacious, but I earnestly trust that they will reconsider and modify the indictment set forth in their communication, that the officers of this Association are discriminating [fol. 655] in favor of the East Side lines at the expense of the West Side Lines.

This Association is operated as an impartial agent of its proprietary members. Our officers consistently endeavor to be fair and neutral, but the traffic officers should not visit upon us their displeasure on account of a procedure or practice regularly established by our Board of Directors, while they have such ample means to rectify it if inequitable or unwarranted.

I have sent a copy of this letter to each of the gentlemen to whom your letter of the 18th, above referred to, was addressed.

Yours truly, (Signed) W. S. McChesney, Jr., President.

[fol. 656] Copy

Terminal Railroad of St. Louis

July 13, 1915.

Mr. W. C. Stith, Traffic Manager.

DEAR SIR: Referring to our conversation today about the controversy that has arisen over the payment of our trans-Mississippi charges—

It seems to me that it is singularly unfortunate that we should be drawn into this argument. Our only concern is that we be paid our service charges, and it is immaterial to us whether these charges be paid by the east side or the west side lines; it is obvious that somebody must pay them. This whole situation, it seems to me, was provided for in the seventh paragraph of the opinion of the Supreme Court of the United States, in the following words.

"To avoid any possible misapprehension, the decree should also contain a provision that nothing therein shall be taken to affect in any wise or at any time the power of the Interstate Commerce Commission over the rates to be charged by the Terminal Company, or the mode of billing traffic passing over the routes over its lines, or any other power conferred by law upon such Commission."

However, our stand in this matter is fixed and defined by resolution adopted by our Board of Directors on the 14th day of September, 1914, which is as follows:

"Resolved: That the question of payment of terminal line charges on eastbound business exchanged between the western and eastern lines through the St. Louis gateway is a question to be finally settled by the traffic officials of the interested lines, and that, pending such final settlement, the President be, and hereby is, directed to notify the western lines that, unless terminal transfer charges on eastbound business were guaranteed by the delivering lines, such business would be refused."

[fol. 657] Pursuant to above resolution, proper notice was given to the lines in interest.

We have no latitude in our course of action and our policy will continue to be as above outlined until changed by action of the Board.

It seems to me that this controversy should be settled between the east and west side lines, without bringing the Terminal Association into it; or, if those lines cannot agree, the Interstate Commerce Commission has unquestioned jurisdiction of the whole subject matter.

Yours truly, (Signed) W. S. McChesney, President.

[fol. 658] Copy

Missouri Pasific Railroad Company

St. Louis, Mo., September 30, 1915.

Messrs. W. C. Bierd, President, C. & A. R. R., Chicago, Ill.; W. J. Jackson, Receiver, C. & E. I. R. R., Chicago, Ill.; Bluford Wilson, President, C. P. & St. L. R. R., Springfield, Ill.; A. H. Smith, President, C. C. C. & St. L. Ry., New York City; C. H. Markham, President, Ill. Cent. R. R., Chicago, Ill.; Milton H. Smith, President, L. & N. R. R.; Louisville, Ky.; Fairfax Harrison, President, Sou. Ry. & M. & O. R. R., Washington, D. C.; Walter L. Ross, Receiver, T. St. L. & W. Rys., Toledo, Ohio; Samuel Rea, President, Vandalia R. R., Philadelphia, Pa.; E. F. Kearney, President, Wabash R. R., St. Louis, Mo.; Hale Holden, President, C., B. & Q. R. R., Chicago, Ill.; J. M. Dickinson and H. U. Mudge, Receivers, C. R. I. & P. Ry., Chicago, Ill.; Jas. W. Lusk, W. C. Nixon, and W. B. Biddle, Receivers, St. L. & S. F. R. R., St. Louis, Mo.; Daniel Willard, President, B. & O. S. W. R. R., Baltimore, Md.; F. H. Britton, President, St. L. S. W. Ry., St. Louis, Mo.

Gentlemen: Under resolution of the Legal and Traffic representatives of the proprietary lines of the St. Louis Terminal Railroad Association appointing the undersigned to call a conference of the Presidents of the proprietary lines of said Terminal Railroad Association to consider the absorption of bridge tolls at St. Louis, meeting is hereby called of the Presidents and Receivers of said proprietary lines for 2:00 P. M., Saturday, October 30th, at the Blackstone Hotel, in the city of Chicago, Illinois.

As the controversy over the absorption of bridge tolls by the Western lines of the St. Louis Terminal Railroad Association has reached a critical condition, and very important questions will come before the meeting, a full representation of the Executives of each of the interested lines is desired.

Please acknowledge receipt of this notice and indicate to both of the undersigned if you will be able to attend said meeting.

Yours truly, (Sgd.) C. E. Schaff, Receiver for M. K. & T. Ry. (Sgd.) B. F. Bush, Receiver, The Missouri Pacific Ry. Co. and St. Louis, Iron Mt. & So. Ry. Co.

[fol. 659] Copy

Meeting of Committee Appointed October 30th, 1915, to Prepare Statement of Facts Covering Disposition of Bridge Toll Between Eastside and Westside Lines on Through Traffic

Present: Southern Railway Company, Chairman, by T. C. Powell, V. P.; Wabash Railroad, by W. C. Maxwell, General Traffic Mgr.; M. K. & T. Railway, by C. Haile, Chief Traffic Officer; Frisco Lines, by Carl Giessow, representing Assistant Freight Traffic Manager, F. C. Reilly; Big Four Railway, by C. J. Brister, Traffic Manager; Rock Island Lines, not represented (Mr. Gorman advised that he would not object to Committee meeting for purpose of outlining program).

The Committee met at 3:30 P. M. November 8th, 1915, in St. Louis Eastbound Freight Committee rooms, Century Building, St. Louis, Mo.

The Committee agreed that their report should cover the following scope:

1. To develop facts on through traffic crossing the Mississippi River at East St. Louis and at other crossings, Cairo and Thebes to East Dubuque, inclusive.

2. To begin the record with the year 1877, for the reason that with some exceptions practically all of the rates between points east of the Mississippi River and points west of the Mississippi River were based on the rates to and from East St. Louis and other east bank points. (The

Committee's report to include at this point the important exceptions to said basis.)

3. It was agreed that the completion of the C. & A. bridge resulted in the first important change in the above basis; that is to say the C. & A. bridge at Louisiana, Mo., was completed in 1877, and prior to that date the rates from East St. Louis to points west of the Mississippi River and from points west of the Mississippi River to East St. Louis were made on St. Louis combination.

4. In 1877, when the C. & A. bridge at Louisiana, Mo., was opened for traffic, thereby giving the Alton and through route between St. Louis and Kansas City via East St. Louis and the bridge at Louisiana, Mo., the rates to and from East St. Louis were made the same as to and from St. Louis, with certain exceptions in near by territory, some of which exist to-day.

5. It was agreed that the next step in the statement of facts would be the records of rate bases authorized in circulars issued and effective in 1888, these circulars to be used as foundation for further date; namely, the Eastbound Traffic Circular 897, issued March 23rd, 1888.
[fol. 660] On Westbound traffic, No. 946, issued as record of meeting October 18th and 19th, 1888.

6. It was agreed that the next step in the statement of facts will be based on the Joint Rate Committee Agreement of 1892.

7. The Committee decided that in order to expedite the preparation of data the Westside members, namely, the M. K. & T., Rock Island and Frisco, would prepare a memorandum setting out their record of the facts under the above general outline, together with any other facts illustrating the situation.

The Eastside members to take the same action and this date from both the Westside and Eastside members to be sent to the Chairman and be, by him, combined into one memorandum for further consideration by the whole Committee.

8. The Chairman to ask Mr. Eugene Morris for copies of his records to avoid duplication, said records to be sent to both the Eastside and Westside members and be em-

bodied into the memorandum to be prepared by the Chairman.

9. It was agreed that if in the investigation it developed that any rates on specific traffic, either as to commodity, territory, or as to point of origin or destination, now provide definitely for the bridge toll in either direction and the disposition thereof, said rates shall be noted by the Committee as not being involved in this present controversy.

10. It was understood that the members of the Committee need not confine themselves to the records in their own offices, but were to feel at liberty to consult the records of other railroads or the records of any other Association, Agents or Chairmen.

T. C. Powell, Chairman.

November 8th, 1915.

[fol. 661] Copy

St. Louis, Mo., November 5, 1914.

Terminal Railroad Association of St. Louis; The Baltimore & Ohio Southwestern R. R. Co.; The Chicago & Alton R. R. Co.; Chicago & Eastern Illinois Railroad; Chicago, Peoria & St. Louis Railroad Co.; Cleveland, Cincinnati, Chicago & St. Louis Ry.; Illinois Central Railroad; Louisville & Nashville Railroad; Southern Railway Company; Toledo, St. Louis & Western Railroad; Vandalia Railroad Company; The Wabash Railroad Company.

Gentlemen: Referring to notices served by your Companies on the undersigned companies, dated August 17th, 1914, and September 26th, 1914, in the matter of intermediate transportation tariff charge of the Terminal Railroad Association, which is being collected for your account, on eastbound traffic delivered to you at St. Louis, Missouri.

This is to notify you, and each of you, that while it has been the practice in the past for the undersigned companies to assume and pay said intermediate transportation charge, they do not regard the practice as binding, for the following, among other reasons:

(1) The decision of the Supreme Court of the United States in the case of United States vs. Terminal Railroad

Association, your companies, and the undersigned companies, and the decision and decree of the United States District Court made pursuant thereto require the abandonment on the part of the Terminal Railroad Association and the proprietary companies of all operating methods and charges as for railroad transportation for the service in question.

(2) Said decisions and decree require the Terminal Railroad Association to confine its service to the transaction of Terminal Business of the Agent of the several proprietary companies.

(3) Said decisions and decree constitute the rails of the terminal association, your rails into St. Louis, Mo., and require your tariff rates to cover the transportation of traffic from and into St. Louis.

[fol. 662] (4) The operating contracts of October 1, 1889, as amended, pursuant to said opinion and decree, requires each of the proprietary companies to be placed upon a plane of equality with respect to the benefits and burdens of the operation of said terminals.

(5) Your tariffs, as filed with the Interstate Commerce Commission, apply to St. Louis, Mo., as required by said decree.

(6) The above-named East side proprietary companies by virtue of their number, have combined and confederated to impose this illegal charge and burden upon the west side lines, in violation of their rights under the operating contract and contrary to the decision and decree referred to and the officers of the Terminal Railroad Association instead of obeying said decisions and decree and operating the terminals in conformity therewith, and in accordance with the operating agreement, are operating the same pursuant to the directions to the east side proprietary lines and wholly in their interests and at the sole expense of the west side proprietary lines.

In order, however, to permit the con-inuous movement of the traffic and to prevent embarrassing shippers who should not be involved in the controversy, the undersigned companies, will pending the adjustment thereof, pay the intermediate charge under protest, if they do not recognize your right or the right of the Terminal Railroad Association, as your Agent or otherwise, to demand the payment thereof

and payment is and will be made without prejudice to our right to hereafter recover said money thus unlawfully exacted from the undersigned companies.

Chicago, Rock Island & Pacific Railway Company, by S. H. Johnson, Its Ass't Freight Traffic Manager. The Missouri Pacific Railway Company, by C. E. Perkins, Its Freight Traffic Manager. Missouri, Kansas & Texas Railway Company, by C. Haile, Its Vice-President & Traffic Manager. Saint Louis & San Francisco Railroad, by F. C. Reilly, Its Ass't Freight Traffic Manager.

[fol. 663] Copy

November 26, 1915.

Mr. T. C. Powell, V. P., Southern Railway Company, Washington, D. C.

Dear Sir: At the meeting on October 30, 1915, at which time the question of absorption of the St. Louis bridge toll was given consideration, the M. K. & T., Rock Island and Frisco Lines were appointed a committee to prepare a memorandum setting forth the conditions surrounding this controversy. The committee begs leave to submit the following report:

Freight Traffic

Prior to the completion in 1877 of the Chicago & Alton's bridge at Louisiana, Mo., rates between points east and west of St. Louis-East St. Louis were made on the full combination of locals with the Mississippi River transfer charge added, the rates of the west side lines applying to or from St. Louis and of the east side lines from or to East St. Louis. With the completion of the Chicago & Alton bridge, that line published the St. Louis basis of rates between East St. Louis and stations on its line west of the Mississippi River, forcing the west side lines to take similar action and absorb the river transfer, as the through rates were necessarily based on East St. Louis, there being no rates published between St. Louis, Mo., and points east of the Mississippi River.

In the course of time St. Louis shippers began to agitate the question of through rates between St. Louis and the

East, with the result that after considerable negotiations between a commission appointed by the City and the representatives of the east side lines, through rates were established, the adjustment which was finally adopted by the St. Louis interests being reached by advancing the rates to and from East St. Louis and making them applicable to and from St. Louis.

It is claimed by the East side lines that the rates so published were to apply only on St. Louis proper business. This contention is not borne out by the tariff publication; for example, Cameron's Tariff I. C. C. D-70, which excepts certain rates from application on through consigned shipments; for instance those covered by reference mark "Circle 40" on page 72, which reads:

"These rates are reshipping rates and will apply from East St. Louis, Madison, or Alton via all lines (except as otherwise provided for) on direct through consignments from points in Missouri (except St. Louis), Kansas, Oklahoma, Texas, California, etc. Will not apply from St. Louis, Mo., on direct through consignments."

[fol. 664] Likewise on shipments of Lead, etc., destined to various points east of the Mississippi River, rates are published with the following notation:

"From St. Louis, Mo., rates will apply only on shipments smelted at that points, and will not apply on shipments from beyond (See W. Cameron's I. C. C. D-69, Page 285).

It is evident that where no exception is carried, rates to or from St. Louis are properly applicable on business to or from beyond. That this was the intention is further evidenced by the fourth report of the Municipal Bridge and Terminal Commission to the Assembly May 24, 1907, which reads in part:

"This adjustment means that so far as freight traffic is concerned, East St. Louis, Madison and Granite City will be merely divisions of St. Louis, just as North St. Louis, South St. Louis and Carondelet are divisions of St. Louis, it means that St. Louis will be the freight rate basing point, not only for business between the St. Louis district and the East, but between the East and most of the west territory west of the Mississippi River."

Attempts were made from time to time by the west side lines to induce the eastern lines to assume a proper share of the St. Louis river transfer on through traffic, but without result, until during the summer of 1914 the C. P. & St. L. stated its willingness to pay the bridge toll on shipments delivered to them. Subsequently they re-cinded this action. In the meantime the western roads demanded their full tariff rate up to St. Louis on business not covered by through rates, expecting the east side lines to apply their published tariff rates from St. Louis paying the river transfer out of such rates.

The refusal of the eastern lines to protect their tariff rates caused much confusion and delay and was seriously affecting the St. Louis gateway. A joint conference between the Eastern and western lines was held in St. Louis on September 28, 1914, at which nothing definite was accomplished. The western lines resumed, under protest, the payment of the river transfer.

Through rates are published between Central Freight Association Territory and other points east of the Mississippi River to Southwestern territory, which are based differentially over St. Louis, resulting in a parity of rates via all crossings. To and from points in Western Trunk Line and Trans-Missouri territories, rates generally are on the Mississippi River (St. Louis) combination. Between Trans-Continental Territory and points east of the Mississippi River, through, rates are published. In all cases the eastern lines insist upon the western roads making delivery to them at East St. Louis assuming the entire expense of the river transfer, they exacting their full local.

[fol. 665] When rates were advanced 5 per cent under the comparitively recent order of the Interstate Commerce Commission, they took the full measure of the advance, forcing a reduction in the earnings of the Southwestern lines to the extent of the advance until such time as those lines could obtain authority and advance their published through rates.

As the matter now stands, the Western lines are absorbing the transfer on all business, with the exception of the limited traffic originating at or destined to points within the so-called "100 mile zone," whether covered by through rates or moving on combination of locals, and it is their

contention that this expense is one that should properly be prorated on some equitable basis between all lines at interest.

Passenger Traffic

The controversy in regard to passenger fares relates only to such fares as are constructed through other gateways and equalized through St. Louis. In other words, it does not increase fares that are constructed by the use of the local fares to and from St. Louis.

On December 5, 1912, the Southwestern Passenger Association lines issued a notice to the eastern lines that after January 1, 1913, bridge arbitraries in excess of 30 cents one way and 60 cents round trip would not be recognized in division of passenger rates where the same were divided upon a mileage basis, and that no abritraries at all would be considered where each line received its full factor of the rate up to St. Louis. The Central Passenger Association lines replied to this notice and denied the right of the Southwestern Passenger Association lines to fix the arbitraries to be allowed, stating that they should insist upon receiving the arbitraries which had been in effect for a great many years, which were and are 75 cents on one-way first class tickets; 50 cents on one-way second class tickets, and $1.00 on round trip tickets. The arbitraries are deducted by the eastern lines before the earnings are divided. Thereupon it was sought to adjust the controversy by the appointment of a committee, whose conclusions should be submitted to three arbitrators, one to be selected by the eastern lines, one by the western lines, and the third by the two arbitrators as selected. The western lines appointed as their arbitrator Mr. W. J. Black, Passenger Traffic Manager of the Santa Fe, but the eastern lines have never appointed an arbitrator.

Commencing November 1st, 1914, the western lines in dividing the earnings on eastbound passenger business adopted the practice of deducting the same arbitraries that are deducted by *the same arbitraries that are deducted by* the eastern lines on westbound passenger business, so that under the present situation the western lines are not at a great disadvantage, but claims and counterclaims are continually being made by the Accounting Departments of the

respective lines for an increase in the divisions, and for this [fol. 666] reason the matter is not settled, but is in a very unsatisfactory condition.

The actual charge made by the Terminal Railroad Association and the St. Louis Merchants Bridge Terminal Railway Company, as shown by their tariffs, is $3.00 per car on passenger cars, irrespective of the number of passengers, and $1.50 per car on baggage cars. The published fare of the St. Louis Merchants Bridge Terminal Railway Company from St. Louis to Granite City is 30 cents and of the Terminal Railroad Association from St. Louis to East St. Louis is 25 cents, whereas the eastern lines deduct 75 cents on first class and 50 cents on second class and $1.00 on round trip tickets, regardless of the number of passengers in the car.

Some equitable arrangement for the absorption of the bridge arbitrary where passenger fares are not based upon the full combination of fares to and from St. Louis should be agreed upon in order that the frequent controversies and claims which are now arising can be done away with.

Yours truly, (Signed) C. Haile, G. T. C., M. K. & T. Ry. (Signed) S. H. Johnson, A. F. T. M., C. R. I. & P. Ry. (Signed) F. C. Reilly, A. F. T. M., St. L. & S. F. R. R.

[fol. 667] Copy

St. Louis, April 9, 1917.

A meeting of the East Side and West Side Lines, at St. Louis, was held in Room 300 Union Station, at 3:00 P. M. this day, same having been called for the purpose of considering the absorption of the Mississippi River transfer rates at St. Louis:

The following lines were represented:

Baltimore & Ohio Southwestern,	by Edw. Hart, Jr., West. Gen. Frt. Agt., Wm. A. Eggors, Ass't Gen. Atty.
Big Four Route,	" C. J. Brister, Frt. Trf. Mgr., L. J. Hackney, Gen. Counsel.

Chicago & Alton R. R.,	by W. G. Biers, President, S. G. Lutz, Gen. Trf. Mgr., S. H. Strawn, Gen. Sol.
Chicago & Eastern Illinois R. R.,	" W. J. Jackson, Receiver, F. O. Jennings, Frt. Traf. Mgr.
Chicago, Peoria & St. L. R. R.,	" Wm. Cotter, Receiver, W. C. Hurst, Gen. Mgr., F. W. Brown, G. F. & P. A.
Chicago, Burlington & Quincy,	" Wm. Gray, Gen. Frt. Agt.
Frisco Lines,	" F. C. Reilly, Frt. Traf. Mgr., W. F. Evans, Gen. Solicitor.
Illinois Central R. R.,	" C. C. Cameron, Gen. Frt. Agent, F. H. Law, Gen. Frt. Agent.
Louisville & Nashville R. R.,	" A. R. Smith, 3rd Vice-Pres., H. L. Stone, Gen. Couns., W. L. Mapother, 1st V. P., John Fitzgerald, Supt.
Missouri Pacific Ry.,	"B. F. Bush, Receiver, H. M. Adams, Gen. Traf. Mgr., H. G. Hervel, Gen. Attorney, E. J. White, Gen. Couns.
Missouri, Kansas & Texas Ry.,	"J. M. Bryson, Gen. Counsel, C. Haile, Chief Traffic Officer.
Mobile & Ohio R. R. Co.,	" Haiden Miller, Frt. Traf. Mgr.
Pennsylvania R. R.,	" B. McKeen, 5th Vice-Pres., T. B. Hamilton, Res. Vice-Pres., and C. B. Sudborough, Gen. Frt. Agt.
Rock Island Lines,	" T. H. Beacon, Gen. Mgr., Stanley Johnson, F. T. M., M. B. Bell, Gen. Sol.

Southern Railway Company,	by T. C. Powell, Vice-Pres., R. A. Campbell, G. F. A., A. P. Humphrey, Gen. Counsel, E. C. Kramer, Attorney.
St. Louis Southwestern Ry.,	" J. M. Allen, Gen. Frt. Agent.
Toledo, St. Louis & Western Ry.	" B. C. Stevenson, Gen. Traf. Mgr.
Terminal R. R. Ass'n of St. L.,	" W. S. McChesney, Pres., W. C. Stith, Traf. Mgr., T. M. Pierce, Gen. Couns.
Wabash Railway Company,	" E. F. Kearney, Pres., J. L. Minnis, Vice-Pres., C. H. Stimson, F. T. M.

[fol. 668] Mr. B. F. Bush was appointed Chairman and Mr. F. E. Anderson Secretary of the meeting.

The following resolution was adopted:

"Whereas the chairman of this mass meeting is advised that the Board of Directors of the Terminal Railroad Association of St. Louis has requested the General Counsel of the Terminal to take up with the Counsel of individual lines the legality of the tariffs of the Terminal Association, and reach a conclusion for the benefit of the Terminal Board.

"Resolved: That the question of the legality of said Terminal Association tariffs be dismissed from consideration by this mass meeting."

After further consideration the following resolution was presented, duly seconded, and unanimously adopted:

"Moved: That a committee of five (two to be named by the East Side lines, two by the West Side lines, and these four to select the fifth) be appointed to analyze the report of the Powell Committee, and, after eliminating those rates which already definitely provide for the disposition of the Mississippi River bridge toll, the committee be called upon to submit a recommendation looking to an adjustment of

all other rates and the bridge toll relating thereto,—report to be filed in sixty days."

Pursuant to above resolution, the East Side Lines appointed on the committee a traffic representative of the Big Four and of the Baltimore & Ohio Southwestern, and the West Side Lines appointed a traffic representative of the Rock Island and of the Frisco.

On motion the meeting adjourned.

F. E. Anderson, Secretary.

[fol. 669] Copy

St. Louis, April 24, 1917.

Mr. B. McKeen, Fifth Vice-President, Pennsylvania R. R. Co., Pittsburgh, Penn.

Dear Sir: Referring to letter from Mr. C. J. Brister, Traffic Manager Cleveland, Cincinnati, Chicago & St. Louis Ry. Co., April 11, in which he advised that it would be impossible for him to act on the committee for the East Side Lines on the question of absorption of Mississippi River transfer charges, and suggested that the Pennsylvania Railroad Company be substituted for the Big Four as the eastern line, other than the Baltimore & Ohio, to act on this committee.

I have advices from the Wabash, C. & A., L. & N., Southern Ry., C. & E. I., C. P. & St. L., and M. & O. concurring in Mr. Brister's suggestion that a representative of the Pennsylvania be appointed in his stead. These are a majority of the East Side lines interested; the Pennsylvania is therefore substituted as a member of the committee, in place of the Big Four.

Yours truly, (Signed) F. E. Anderson, Secretary.

Copies to—

Mr. B. F. Bush, Receiver, Mo. Pacific Ry. Co.

Mr. C. J. Bristor, Traffic Mgr., Big Four, Cincinnati.

Mr. Edw. Hart, Jr., West, Gen. Frt. Agt., B. & O. S. W., St. Louis.

Mr. S. G. Lutz, G. T., C. & A. R. R. Co., Chicago, Ill.

Mr. T. O. Jennings, F. T. M., C. & E. I. R. R., Chicago, Ill.

Mr. W. C. Hurst, Gen. Mgr., C. P. & St. L. R. R. Co., Springfield, Ill.

Mr. C. C. Cameron, G. F. A., Ill. Central R. R., Chicago, Ill.
Mr. A. R. Smith, 3rd Vice-Pres., L. & N. R. R., Louisville, Ky.
Mr. Haidon Miller, F. T. M., M. & O. R. R., St. Louis.
Mr. T. C. Powell, V. P., Southern Ry., Cincinnati, Ohio.
Mr. B. C. Stevenson, G. T. M., T. St. L. & W., Toledo, Ohio.
Mr. C. H. Stinson, F. T. M., Wabash Ry., St. Louis.

[fol. 670] Copy

St. Louis, June 7, 1917.

Mr. F. E. Anderson, Secretary, St. Louis, Mo.

Dear Sir: Referring to resolution adopted at meeting of the East Side and West Side lines, held at St. Louis, April 9th, which reads as follows:

"Moved: That a committee of five (two to be named by the East Side lines, two by the West Side Lines, and these four to select the fifth) to be appointed to analyze the report of the Powell Committee, and, after eliminating these rates which already definitely provide for the disposition of the Mississippi River bridge toll, the committee be called upon to submit a recommendation looking to an adjustment of all other rates and the bridge toll relating thereto, report to be filed in sixty days."

The Big Four having resigned from this committee, the Pennsylvania was substituted. Several meetings of the four members of this sub-committee have been held, and in addition thereto there have been various exchanges of views, verbally and by correspondence, in a diligent effort to, in line with the terms of the foregoing resolution, agree upon a fifth member, but this has been found impracticable.

In the hope and belief it will afford some light to the Presidents, there is submitted herewith a statement setting forth the different classes of traffic involved in this controversy, with a brief explanation of the divisions applicable thereto, and the current disposition of bridge tolls.

In view of the fact that it was impossible to arrive at a conclusion different than heretofore, i. e., declination of the eastern roads to change the present methods. The rep-

resentatives of the two western roads suggested that the question be referred to an Interstate Commerce Commissioner for arbitration, the two members of the eastern roads assenting thereto.

Yours truly, Baltimore & Ohio Railroad Company, by (Signed) C. L. Thomas. Pennsylvania Lines, by C. D. Sudborough. St. Louis-San Francisco Railway Co., by F. C. Reilly. Chicago, Rock Island & Pacific Ry. Co., by S. H. Johnson.

[fol. 671] Copy

Statement of Trans-Mississippi Rate and Divisional Bases via East St. Louis, St. Louis

Trans-Continental traffic for this purpose embraces that moving between points east of the Mississippi River, on the one hand, and the States of California, Oregon, and Washington, also intermediate territory to those States where the Pacific Coast adjustment applies as a maximum, upon the other hand. Percentages are published by the Trans-Continental Freight Bureau, which divide the rates east and west of East St. Louis. Provision is further made in the Trans-Continental issues for the deduction of a Mississippi River bridge toll of two cents per hundred before subdividing the proportions among the lines operating west of the Mississippi River.

On traffic moving between Chicago and points taking same rates and Milwaukee and points taking same rates, upon the one hand, and Kansas City and other southwestern Missouri River points, upon the other hand, percentages are in effect applicable via East St. Louis—St. Louis, published under Western Trunk Line Committee record. In connection with these percentages, definite provision is made for the deduction of St. Louis bridge toll before prorating.

On traffic moving between Chicago and Milwaukee, and points taking same rates upon the one hand, and points in Oklahoma, Kansas, Nebraska, Colorado, and Utah, upon the other hand, system of division is in effect via East St. Louis-St. Louis of Western Trunk Line Committee record, under which the lines east of East St. Louis receive their

fixed proportions, or so-called arbitraries. These arbitraries were arrived at upon the basis of allowing to the lines east of East St. Louis the same earnings as on traffic moving between Chicago and Milwaukee and Kansas City.

On traffic between Chicago and Milwaukee and points taking same rates, upon the one hand, and Texas common points upon the other hand, Southwestern Tariff Committee Division Sheet provides for percentage divisions applicable via East St. Louis or St. Louis.

On traffic moving between Chicago and Milwaukee and points taking same rates, upon the one hand, and points in Texas taking higher than Texas common point rates, also certain Louisiana points west of the Mississippi River, the lines east of East St. Louis or St. Louis are accorded Texas Common point earnings.

On traffic moving between Chicago and Milwaukee and points taking same rates, upon the one hand, and points in Arkansas, Southeast, Missouri, and certain other points in Louisiana west of the Mississippi River, upon the other hand, arbitraries are published accruing to the lines east of East St. Louis.

[fol. 672] On traffic between certain points in Southern Illinois, also points east of the Indiana-Illinois State line and Lake Michigan upon the one hand and points in Arkansas, Oklahoma, Texas and Louisiana upon the other hand, through rates are in effect based on differentials higher than the rates in effect on St. Louis traffic. In the division of such rates, the lines east of East St. Louis are allowed, under the terms of the Southwestern Tariff Committee and of division sheets of individual lines, their local rates.

On traffic between the Missouri River upon the one hand, and lower Mississippi River points, also Ohio River points, Evansville and south or southeastern traffic upon the other hand, percentage divisions are in effect published by individual lines which are applicable via both St. Louis and East St. Louis. The division sheets do not make specific provision with respect to the disposition of the St. Louis bridge toll. The practice has been where the business has been interchanged between western lines, and southern lines operating on the east bank, for the western

lines to absorb the bridge toll. Where the business has been interchanged with lines operating south from St. Louis on the west bank, there is no deduction, because, of course, no bridge is used.

The foregoing divisions are also used in connection with traffic moving between southeastern territory, i. e., territory south of the Ohio and east of the Mississippi River, upon the one hand, and the territory on the west of the Missouri River, exclusive of Trans-Continental traffic, upon the other hand,—the rates ordinarily breaking upon combinations of locals on the Ohio River and the subdivision on East St. Louis-St. Louis being affected by the implication of the percentages in effect to and from the Ohio River.

All of the foregoing traffic is covered by Joint through rates. On all other traffic than that above described, the rates are made on combinations of rates published separately to and from the Mississippi River. Such other traffic embracing that moving between points east of the Indiana-Illinois State line, and Lake Michigan, upon the one hand, and all territory west of the Mississippi River, and on, and north of the Arkansas, Missouri, and Oklahoma-Kansas State lines, including New Mexico and Arizona, but exclusive of Trans-Continental traffic, upon the other hand. As to this traffic where the rates make upon the Mississippi River combinations, the current custom, and that heretofore followed, has been to allow the lines east of East St. Louis their local rate. To the statement made in this paragraph, the following exceptions exist:

A.—The Burlington interchanges eastern traffic with western roads at St. Louis.

B.—In a comparatively few instances, the lowest combination on locals make on St. Louis, and not on East St. Louis; in such instances, the eastern lines absorb the bridge toll.

C.—On traffic moving between Illinois and Missouri points within a short radius east and west of St. Louis and East St. Louis, the rates make on the Mississippi River combination with bridge toll added.

[fol. 673] Copy

St. Louis, August 31, 1920.

Mr. F. A. Leland, Agent, S. W. Tariff Bureau, St. Louis, Mo.; Mr. R. H. Countiss, Agent, Trans-Continental Frt. Bu., Chicago, Ill.; Mr. W. P. Emerson, Agent N. O. Trf. Bureau, New Orleans, La.; Mr. W. J. Sedgman, Agent, 320 Broadway, New York, N. Y.; Mr. R. C. Fyfe, Agent, Western Clsfn. Bureau, Chicago, Ill.; Mr. W. M. Hough, G. F. A., Miss.-Warrior Waterways, New Orleans, La.; Mr. E. B. Boyd, Agent, Western Frt. Trf. Bureau, Chicago, Ill.; Mr. W. J. Kelly, Agent, C. F. A., Trf. Bureau, Chicago, Ill.; Mr. F. L. Spedien, Lou. Frt. Trf. Bureau, Louisville, Ky.; Mr. J. E. Fairbanks, Agt., Transportation Bldg., Chicago, Ill.; Mr. F. S. Davis, Agent, Eastern Frt. Trf. Bureau, New York, N. Y.

Gentlemen: Referring to our joint letter this date instructing the elimination of the Terminal Railroad Association of St. Louis and subsidiary lines as participating or concurring carriers in tariffs issued by your Bureau for account of the undersigned carriers.

In submitting these instructions we have done so in order that the decisions of the United States Supreme Court in United States vs. Terminal Railroad Association, 724 U. S. Rep. 410 and 234 U. S. Rep. 194, and the final decree entered pursuant thereto, shall be complied with, and in submitting to the Interstate Commerce Commission the supplements to your tariffs providing for the elimination you should so advise the Interstate Commerce Commission.

In said decisions the Supreme Court of the United States held that the Terminal Railroad Association and its subsidiaries could not lawfully operate as common carriers except as to traffic moving exclusively on their own lines.

Yours truly, (Original signed) Geo. T. Atkins, Freight Traffic Manager, Missouri, Kansas & Texas Railway. (Original signed) W. A. Rambach, Freight Traffic Manager, Missouri Pacific Railroad. (Original signed) S. S. Butler, Freight Traffic Manager, St. Louis-San Francisco Railway.

[fol. 674] Copy

The Cleveland, Cincinnati, Chicago & St. Louis Ry. Co., Evansville, Indianapolis & Terre Haute Railway Co., The Cincinnati Northern Railroad Company

709-714 Union Central Building,
Cincinnati, Ohio, March 24th, 1925.

Subject: Wagon Transfer of freight between St. Louis and E. St. Louis.

Mr. J. M. Kurn, President, St. Louis-San Francisco Ry. Co., St. Louis, Mo.

Dear Sir: I wish to bring to your attention the condition existing at St. Louis and East St. Louis relative to the question of wagon transfer of freight between these points.

Prior to January 1, 1906, there were no joint through rates between St. Louis and points east of the Mississippi River. On that date through rates were established and such rates were made to apply to and from the off-track stations of the transfer companies, and, therefore, the railroads, for the first time, became interested in the transfer companies' charges.

About the same time, the railroads terminating at East St. Louis, through a committee, entered into negotiations with the principal transfer company (then the St. Louis Transfer Company) to reach a definite understanding as to the service to be rendered by the Transfer Company, their obligations, and charges. It was not possible to reach an agreement and the negotiations were broken off and, therefore, the regular tariff rates for the various classes of service performed by the Transfer Company were paid by the railroads. In the absence of an agreement, such tariff rates were subject to change at the will of the transfer company and this unbusinesslike situation exists to-day. [fol. 675] There are now three transfer companies to which allowances are made: Columbia Terminals Company, Fidelity Transfer Company and Central Transfer company with off-track stations as follows:

	Inbound	Outbound	Total
Columbia Terminals	3	5	8
Fidelity Transfer Co.	1	1	2
Central Transfer Co.	1 (Jt. in and outbound)	1	2

No material changes were made in those rates until January 2, 1918. Since that time the following changes have been made, after submission by the transfer companies of financial statements showing necessity for increased revenue, and an examination of these statements by properly constituted committees representing the railroads:

January 2, 1918	7% increase
July 1, 1918	25% "
July 1, 1919	10% "
May 4, 1920	30% "
April 10, 1922	12% decrease

Therefore, the rates today are substantially 68% higher than the rates in effect prior to January 2, 1918. The rates paid the transfer companies are as follows:

St. Louis City outbound to eastside depots	$2 41 per ton
St. Louis City outbound to westside depots	2 00 " "
St. Louis City inbound from eastside depots	2 70 " "
Interchange between eastside depots	1 69 " "
Interchange between westside depots	1 76 " "
Interchange between depots involving Trans-Mississippi service	1 97 " "

In addition, the eastside lines make an allowance to transfer companies for direct delivery from the depots on the eastside to the west bank of the Mississippi of 2¢ per 100 lbs. or 40¢ per ton on l. c. l. and 1¢ per 100 lbs or 20¢ per ton on carload merchandise.

After the reduction of 12% was made on April 10, 1922, the special committee, whose report recommended the reduction, thought that further substantial reductions could be made. The question was given very careful examina- [fol. 676] tion and finally a sub-committee of experienced accounting and operating men was appointed to investigate the methods of the transfer companies and this committee made an exhaustive report of the tonnage handled for 1921 and submitted its report on January 11, 1923. The report showed that the Columbia Terminals Company handled 80.5% of the total tonnage, the Fidelity Transfer Company 12.8% and the Central Transfer Company 6.7%. The committee strongly recommended reduction to one transfer company and believed that this, together with cer-

tain recommendations they made, would make a saving of $341,532.03 to the railroads. It further showed that if one transfer company had handled all the tonnage for the year 1921, a saving of $240,301.00 could have been made. The report of the sub-committee was unanimously approved by the special committee, but when a meeting of the roads of St. Louis and E. St. Louis was called for March 27, 1923, the lines were not in agreement. Subsequent meetings were held and at the final meeting only the C., B. & Q., Wabash, B. & O., Pennsylvania and Big Four were in favor of the adoption of the sub-committee's report. The other lines were not favorable.

I believe that this subject has not been given the necessary attention by the proper officials. The east side lines, particularly should be vitally interested. In addition to the saving as outlined above, there is an excellent reason to believe that a very large additional saving could be made if we had but one transfer company, and further arrange to have our freight moved by the direct delivery plan.

Prior to 1917 about 50% of the merchandise handled by the east side lines moved from the east side lines direct to the consignee's place of business, but through competition the larger companies have refrained from soliciting direct delivery orders from consignees, and consequently, there is [fol. 677] only 5% of this traffic handled now under the direct delivery plan.

If this merchandise moved direct from the east side depots to consignees, the allowance made the transfer companies by the carriers under their present tariffs would be 40c per ton, while if the merchandise moves through the off-track stations the east side lines pay the transfer companies $2.70 per ton. In other words, the direct delivery plan means a saving to the carriers of $2.30 per ton. This, therefore, is an opportunity for a very large saving in the handling of this merchandise, provided we had but one transfer company. There is a tendency to increase the off-track stations, and this inevitably means an increased cost to the transfer companies which the railroads pay for. With one transfer company, these off-track stations could be very materially reduced, with a consequent saving in the charges paid by the railroads.

In addition to this, at the present time, about 30% of the merchandise received at the off-track stations of the trans-

fer companies is delivered at the east side stations the same day; the balance is received on the second and third day. There is good reason to believe that with one transfer company, and with fewer off-track stations, 90% of the merchandise received at the off-track stations could be taken over to the east side in time to be forwarded the same day.

I am taking the liberty of referring this question to you with the belief that if the executive officers understood this that there would be no question but that the railroads would agree to establish one transfer company and the resumption of the direct delivery plan.

The only argument that has been offered against it is that we put our trust entirely in one transfer company, but it seems to me that the traffic which is at present being [fol. 678] handled—amounting toover 833,000 tons in 1921—is sufficient to insure that we get reliable service and that the railroads' interest can be thoroughly safe-guarded.

Would it be agreeable with you to give consideration to this question after the annual meeting of the Terminal Railroad Association at St. Louis on April 13th. I think the meeting should be held about twelve o'clock noon, if you are agreeable. I would like to ask the Nickel Plate, the C. & E. I. and the M. & O. to have representatives there, also have present some members of the committee and some of the experts who worked on this, so they can answer questions as to the various details.

I have written this same letter to all the executives of the roads of the St. Louis terminal.

If you are agreeable to this, I will advise Mr. Miller about the date and time of the meeting.

Yours very truly, (Signed) H. A. Worcester, Vice-President.

[fol. 679]

EXHIBIT No. 6

List of Tariffs on File With the Interstate Commerce Commission Showing St. Louis, Mo., a Station on the Lines Shown. Reference is Given to the Page where St. Louis, Mo., is shown

Carrier	A: Reference to item and page number, Agent F. A. Leland's I. C. C.-1756 (open and prepay station list No. 34)		B: Reference to page and table number as shown in the official guide August, 1925, issue		C: Reference to tariff and page, showing St. Louis as station on eastern lines as per their published station lists	
	Item No.	Page No.	Page No.	Table No.	Page	Station list or tariff
B. & O.	....	...	454	15		(1)
C. B. & Q.	3910	588	965	12	23	Tariff 3000-F
C. & A.	795	580	771	1	..	.....
C. & E. I.	9630	581	778	2	6	(2) Station List of 4/1/24.
C. C. C. & St. L.	....	....	244	147	37	(2) List No. 8.
I. C.	....	....	644	22	32	(2) List No. 66.
I. T. S.	5	649	1196	..	3	I. T. S. Tariff 365-B I. C. C. No. 466.
L. & N.	14359	673	545	20	111	(2) List No. 551.
M. & O.	1555	695	528	..	..	.....
N. Y. C. & St. L.	2260	717	265	6	7	Tariff 250-C I. C. C. CL.-934.
Penna.	5760	758	364	4	15	Pa. Tariff 234, I. C. C. F-1734.
Southern	11710	817	515	32	..	.....

T. R. R. Assn.	15	825	1605		..	Tariff 23-L I. C. C. 126.
Wabash	2090	842	274	1		Form A-O-295 Col. 7.

[fol. 680]

Carrier	D Location of eastern lines, St. Louis freight station	E Reference to tariffs listing St. Louis, Mo., as a station on eastern lines shown		
		Jones' tariff	Page	I. C. C.
B. & O.	# 12th & Poplar St.	...	.....	...
C. B. & Q.	# Main & Franklin.	...	.....	...
C. & A.	# 12th & Poplar St.	223	81	938
		224	109	939
C. & E. I.	# Broadway & Biddle.	231	102	941
C. C. C. & St. L.	# 12th & Poplar St.	...	.....	...
I. C.	# 12th & Poplar St.	...	.....	...
I. T. S.	12th & Lucas Ave.	223	Pg. 24, Sup. 26.	938
		224	Page 30, Sup. 30.	939
		231	Page 35, Sup. 30.	941
L. & N.	# Main & Florida.		.....	...
M. & O.	# 12th & Poplar Sts.	223	81	938
N. Y. C. & St. L.	# 12th & Poplar Sts.	224	109	939
Penn.	# 12th & Poplar Sts.	231	102	941
Southern	# 12th & Poplar Sts.	...	.....	...
T. R. Assn.	12th & Poplar Sts.	...	.....	...
Wabash	# Collins & Carr.	...	.....	...

(1) B. & O. Tariff H-3170, I. C. C. WL-9318, page 19 shows St. Louis, Mo., as Junction point with West Side Lines.
(2) Not filed with I. C. C.

EXHIBIT No. 6—Continued

#List of sub-stations.
Columbia Terminals Company, located as follows:
11th & Spruce Sts.—2nd & Carr Sts.
6th & Spruce Sts.—Broadway & Carr Sts.
4th & Valentine Sts.—2nd & LaSalle Sts.
Broadway & Spruce Sts.
Cupples Station—8th & Poplar Sts.
Fidelity Transfer Co.
719 S. 7th St.—7th & Cerre Sts.—7th & Gratiot Sts.
Central Transfer Co.:
4th & Spruce Sts.—508 S. 3rd St.—3rd & Plum Sts.
[fols. 681-734]

Carrier	F Reference to individual tariffs of eastern lines, also Agent Boyd's tariff showing St. Louis as a station on eastern lines Tariff	Page	I. C. C.	G Reference to east side tariffs which show the various stations or transfer companies listed below # are substations of eastern lines I. C. C. No.
B. & O.	B&O. W. T. L.	55	19524	WL—9318
C. B. & Q.	TD-1-A. W. T. L.	161	A-797	1694
C. & A.	TD-1-A. W. T. L.	130	A-797	A—1343

C. & E. I.	TD-1-A. W. T. L.	133	A-797	131
C. C. C. & St. L.	TD-1-A. W. T. L	221	A-797	8094
I. C.	TD-1-A. ITS	237	A-797	A—8213
I. T. S.	156-N. L&N	4	403	504
L. & N.	125-B M&O	5	A15522	A—15239
M. & O.	5585 W. T. L.	116	B668	B—690
N. Y. C. & St. L.	TD-1-A. Penn.	333	A-797	CL—935
Penna.	89 W. T. L.	44	F-1573	1463
Southern	TD-1-A. F A L.	330	A-797	C—2026
T. R. R. Assn	1-M W. T. L.	35	1704.	.....
Wabash	TD-1-A.	343	A-797	5661

[fol. 735] EXHIBIT No. 9

Copy

Toledo, St. Louis & Western Railroad Co.

Toledo, Ohio, December 13, 1905.

Mr. W. B. Biddle, Third Vice-Pres., Rock Island System, Chicago.

DEAR SIR: I enclose herewith a memorandum in regard to carrying out an understanding with the Municipal Bridge and Terminal Commission of St. Louis in relation to bridge tolls at St. Louis, on St. Louis traffic, in which you will note it was recommended that St. Louis rates be made as per the figures stated in the memorandum attached.

I beg to advise that at a meeting held today by the Central Freight Association lines, the subject matter was fully approved and a committee was instituted to take the matter up with the Trunk Lines, New England Lines and the Canadian Lines, and get their concurrence; in all probability, the subject will go through as stated in the memorandum.

This now brings to my mind very prominently the question of absorption of bridge tolls on through traffic; as, for instance, traffic from Missouri river points destined to any point on our line of road, or, so far as that is concerned, to any eastern point, Trunk Line, New England, Canadian or Central Freight Association.

There should be, in my opinion, some understanding existing as between the lines west of St. Louis and the lines east of St. Louis and I favor in this, the receiving line absorbing the bridge charges on through traffic routed via the St. Louis gateway in either direction; as, for instance, any traffic that the Clover Leaf road delivers to your line, through the Terminal Association, your line would absorb the bridge tolls as published, and, in a like manner, any traffic which your line delivers to the Clover Leaf, we would absorb the bridge charges.

This seems to me to be fair, and furthermore, it seems to me of necessity to have an understanding and I would like very much to have you bring this matter up in the proper way before the Western Trunk Line Committee, so

that the subject may reach the constituted committee of the eastern roads, i. e., the Central Freight Association.

You understand that at the present time, the western roads absorb the bridge tolls in both directions; this by reason of their making their rates to and from St. Louis and East St. Louis the same, and I assume that you would like to get out of some of this disability in the manner stated by me, which appears, by studying into the situation, to be eminently fair.

Will you kindly favor me with your views in this matter and if you are disposed to take the matter up in the manner suggested by me?

Yours truly, (Signed) Geo. H. Ross, 2nd V. P. & G. T. M.

Copy to J. W. Blabon, F. T. M., C. & A. Ry.; D. Miller, 1st V. P., C. B. & Q. Ry. Co.

[fol. 736] EXHIBIT No. 10

Explanation of Abbreviations

Abbreviations	Name of carrier
A. & S.	Alton and Southern Railroad.
AT&SF-Santa Fe	Atchison, Topeka and Santa Fe Railway Co.
A&E	Alton & Eastern.
A&V	Alabama & Vicksburg Ry. Co.
A. A.	Ann Arbor Railroad.
B&O	Baltimore and Ohio Railroad Company.
Belt	Belt Railway of Chicago.
B&OCT	Baltimore & Ohio Chicago Terminal R. R.
C. P.	Canadian Pacific Railway Company.
C&O	Chesapeake and Ohio Railway Company.
C&O of Ind.	Chesapeake and Ohio of Indiana.
C&A-Alton	Chicago and Alton Railroad Company.

Abbreviations	Name of carrier
C&EI-Eastern Ill.	Chicago and Eastern Illinois Railway Co.
C&IW	Chicago & Illinois Western Railway Co.
C&NW-Northwestern	Chicago and North Western Railway Co.
CB&Q-Burlington	Chicago, Burlington & Quincy Railroad Co.
CGW-Great Western	Chicago, Great Western Railroad Company.
CI&L-Monon	Chicago, Indianapolis and Louisville Ry.
CM&StP-St. Paul	Chicago, Milwaukee and St. Paul Railway Company.
CP&StL	Chicago, Peoria and St. Louis Railroad Company.
CRI&P-Rock Island	Chicago, Rock Island and Pacific Ry. Co.
C. N.	Cincinnati Northern.
CI&W	Cincinnati, Indianapolis & Western Railroad Company.
CCC&StL-Big Four	Cleveland, Chicago, Cincinnati & St. Louis Railway Co.
CD&M	Clinton, Davenport & Muscatine Railway Co.
CR&I	Chicago River and Indiana Railroad.
Chicago Jct.	Chicago Junction Railway.
DT&SL	Detroit and Toledo Shore Line Railroad Co.
DT&I	Detroit, Toledo and Ironton Railroad Co.
DRI&NW	Davenport, Rock Island and Northwestern R. R.
D. T.	Detroit Terminal.
Erie	Erie Railroad Company.
EI&TH	Evansville, Indianapolis & Terre Haute Railway Co.
E&I	Evansville & Indianapolis Railroad.
[fol. 737]	
GN	Great Northern Railway Company.

Abbreviations	Name of carrier
GCL (Gulf Coast)	Gulf Coast Lines.
G. T.	Grand Trunk.
HV	Hocking Valley Railway Company, The.
I. C.	Illinois Central Railroad Company.
I. T.	Illinois Terminal Company.
I. T. S.	Illinois Traction System.
I. H. B.	Indiana Harbor Belt Railroad Company.
I. N.	Illinois Northern.
LaSou	Louisiana-Southern.
LR&N	Louisiana Ry. & Navigation Co.
L&A	Louisiana & Arkansas.
L&N	Louisville and Nashville Railroad Company.
LH&StL	Louisville, Henderson & St. Louis Railway Company.
Mo-Ill	Missouri-Illinois.
M-K-T (Katy)	Missouri-Kansas-Texas Railway Co.
MC	Michigan Central Railroad Company, The.
MissC or MC	Mississippi Central Railroad Company.
MWR or MWS	Mississippi Warrior Service.
M. P. or Mo. Pac.	Missouri Pacific Railroad Company.
M&O	Mobile and Ohio Railroad Company.
M&NA	Missouri & North Arkansas Railway.
NC&StL	Nashville, Chattanooga & St. Louis Railway, The.
N&S	Natchez & Southern Railway Company.
NO&LC	New Orleans and Lower Coast Railroad Company.
NO&NE	New Orleans and Northeastern Railroad Co.
NOGN	New Orleans Great Northern Railroad Company.

Abbreviations	Name of carrier
NYC	New York Central Railroad Company, The.
NYC&StL	New York, Chicago and St. Louis Railroad Company, The.
(Nickel Plate.) (NKP.)	
[fols. 738-770]	
Penna. or Pa.	Pennsylvania Railroad Company, The.
PM	Pere Marquette Railway Company.
RIS	Rock Island Southern Railway Co.
StL&H	St. Louis and Hannibal Railroad Company.
StL-SF or Frisco	St. Louis-San Francisco Railway Company.
StLSW or Cotton Belt	St. Louis Southwestern Railway Company.
SP SouPac	Southern Pacific Lines.
Sou.	Southern Railway Company.
TRRA or Terminal	Terminal Railroad Association of St. Louis.
T&W	Toledo and Western Railway Company.
TP&W	Toledo, Peoria & Western Railway Company.
TT	Toledo Terminal Railroad Company.
T&P	Texas & Pacific.
Union UR	Union Railway Company (Memphis, Tenn.)
VS&P	Vicksburg, Shreveport & Pacific Railway Company.
Wab-Wabash	Wabash Railway Company.
W&LE	Wheeling and Lake Erie Railway Company, The.
Y&MV	Yazoo and Mississippi Valley Railroad Company.

R. R.	Tariff	I. C. C. No.	Territory between stations	Issued by
B. & O.	Local Passenger Tariff No. W-46.	C-212	St. Louis to Cincinnati, Ohio	Geo. W. Squiggins, Gen. Pass. Agent.
C. C. C. St. L.	Local Passenger Tariff No. 9	4574	St. Louis to Indianapolis, Ind.	D. M. Bowman, Gen. Pass. Agt.
C. & A.	Local Passenger Tariff No. 109.	1612	St. Louis to Illinois points.	Geo. J. Charlton, Pass. Traffic Mgr.
C. & E. I.	Local Passenger Tariff No. 43	1563	St. Louis to Chicago, Ills.	W. H. Richardson, Gen. Pass. Agent.
I. C.	Local Passenger Tariff B-7	A-4819	St. Louis to Cairo, Ill.	H. J. Phelps, G. P. A.
	Local Passenger Tariff C-6	A-4820	St. Louis to Chicago, Ill.	H. J. Phelps, G. P. A.
L. & N.	Local Passenger Tariff Q	4606	St. Louis to Evansville, Ind.	R. D. Pusey, Gen. P.
M. & O.	Local Passenger Tariff A-6	1497	St. Louis to Cairo, Ill.	Charles Rudolph, Gen. Pass. Agent.
Penna.	Local and Inter division Passenger Tariff	3789	St. Louis to Pittsburgh, Pa.	J. M. McCloskey, Ch. of Tariff Bureau.
Southern	Local Passenger Tariff No. A-B-2	4184	St. Louis to Louisville, Ky.	H. F. Cary, Gen. Pass. Agent.
T. St. L. & W.	Local Passenger Tariff 19	1925	St. Louis to Toledo, Ohio.	Chas. E. Rose, Gen. Pass. Agent.
Joint	St. Louis Joint Passenger Tariff No. 287	1152	St. Louis to points in U. S., Canada, Cuba and Mexico.	J. E. Hannegan, Agent.

[fol. 774]

EXHIBIT No. 19

Rausch

Missouri Pacific Railroad

Statement of Revenue Freight, in Tons, Interchanged With Connections During Jan. Feb. Mch. April (4 Months) 1925

Name of connection	Mo. Pac. delivered, tons	Mo. Pac. received, tons	Difference, tons
Baltimore & Ohio R. R.	106,424	45 064	61 360
Chicago & Alton R. R.	270.765	62.246	108.519
Chicago & Eastern Illinois R. R.	212.699	45.145	167.554
Chicago, Burlington & Quincy R. R. (East)	161.068	92.142	68.926
Chicago, Burlington & Quincy R. R. (West)	9.162	16.182	.....
Chicago, Peoria & St. Louis R. R.	79 944	960	78,984
Chicago, Rock Island & Pacific Ry.	89.949	68.836	26.113
Cleveland, Cincinnati, Chicago & St. Louis Railway	154.831	72.866	81.965
East St. Louis, Columbia & Waterloo	415	49	366
Illinois Central Railroad	327.915	153.401	174.514
Illinois Traction System	47.690	8.666	39.024
Litchfield & Madison	336	951	.....
Louisville & Nashville R. R.	61.933	64.524	.....
Mississippi Warrior Service	69.298	11.956	57.342
Missouri, Kansas, Texas R. R.	80.754	75.278	5.476
Mobile & Ohio Railroad	30.389	16.980	13.409

Pennsylvania Lines	160.482	57.545	102.937
St. Louis & Belleville Electric Company	159	75	84
St. Louis & O'Fallon Ry.	.....	.....	.....
St. Louis & Ohio River R. R.	.....	382	382
St. Louis San Francisco R. R.	176.462	50,619	125.843
St. Louis Southwestern Ry.	52.627	30,354	22.273
St. Louis, Troy & Eastern R. R.	7.434	2.842	4.592
Southern Railway	104.534	57.100	47.434
Toledo, St. Louis & Western R. R.	165.788	44.679	121.109
Wabash Railroad	399.566	127.720	271.840

Authority: Statistical data prepared by the Accounting Department, Missouri Pacific Railroad. St. Louis, May —, 1925.

[fol. 775] EXHIBIT No. 20

I. C. C. Docket, No. 16697

Witness: Rausch

Statement of Freight Revenue Cars Interchanged at St. Louis, Mo., by Mo. Pac. R. R. with Lines Shown Below Through or Direct for First Four Months (January-February-March-April), 1925

Railroad	Mo. Pac. received	Mo. Pac. delivered	Difference
B. & O.	960	1169	209
C. & A.	878	414	464
C. & E. I.	697	471	226
C., B. & Q.	404	319	85
C., C., C. & St. L.	1212	5038	3826
Ill. Cent.	1993	1757	236
Ill. Traction	146	67	79
L. & N.	602	882	280
M. & O.	234	432	198
Penn.	1245	1800	555
Southern	647	601	46
T., St. L. & W.	745	671	74
Wabash	1613	3277	1664

St. Louis, May, 1925.

[fol. 776] EXHIBIT No. 21

Rausch

At St. Louis, Mo.

Railroads per index	Name of railroad per body of guide
Baltimore & Ohio	Baltimore & Ohio Railroad.
Burlington Route	Chicago, Burlington & Quincy Railroad Co.
Chicago & Alton	Chicago & Alton Railroad.
Chic. & East. Ill.	Chicago & Eastern Illinois Railroad Company.

Railroads per index	Name of railroad per body of guide
Chic. Rk. Isl. & Pac.	Chicago, Rock Island & Pacific Railway Company.
Cl., Cin., Chic. & St. L.	Cleveland, Cincinnati, Chicago & St. Louis Ry.
E. St. Louis & Suburb. (El.)	East St. Louis & Suburban Railway Co
East St. Louis Col. & W.	East St. Louis, Columbia & Waterloo Railway.
Frisco Lines	St. Louis-San Francisco Railway Company.
Illinois Central	Illinois Central Railroad Company.
Illinois Traction (El.)	Illinois Traction System.
Louisv. & Nashville	Louisville & Nashville Railroad Company.
Louis., Hend. & St. Louis	Louisville, Henderson & St. Louis Railway Company.
Missouri-Kan.-Tex.	Missouri-Kansas-Texas Railroad Co.
Missouri Pacific	Missouri Pacific Railroad Company.
Mobile & Ohio	Mobile & Ohio Railroad Company.
N. Y., Chic. & St. Louis	The New York, Chicago & St. Louis Railroad Company.
Pennsylvania	Pennsylvania Railroad Company.
St. L. Mer. Br. Term.	St. Louis Merchants Bridge Terminal Railway.
St. Louis Southw.	St. Louis Southwestern Railway Company.
Southern	Southern Railway Company.
Term. Assn. of St. L.	Terminal Railroad Association of St. Louis.
Wabash	Wabash Railway Company.

El.—Electric.

Authority—May 1925 Official Guide.

[fol. 777] EXHIBIT No. 22

Rausch

At East St. Louis, Ills.

Railroads per index	Name of railroad per body of guide
Alton & Southern	Alton & Southern Railroad.
Balt. & Ohio	Baltimore & Ohio Railroad.
Burl. Route	Chicago, Burlington & Quincy Railroad Co.
Chicago & Alton	Chicago & Alton Railroad.
Chic. Peoria & St. L.	Chicago, Peoria & St. Louis Railroad.
Clev., Cin., Ch. & St. L.	Cleveland, Cincinnati, Chicago & St. Louis Ry.
East St. Louis, Col. & W.	East St. Louis, Columbia & Waterloo Railway.
East St. Louis & Sub.	East St. Louis & Suburban Railway Co.
Illinois Cent.	Illinois Central Railroad Company.
Illinois Traction	Illinois Traction System.
Litchfield & Madison	Litchfield & Madison Railway Company.
Louisv. & Nash.	Louisville & Nashville Railroad Company.
Louis., Hend. & St. L.	Louisville, Henderson & St. Louis Railway Co.
Missouri Pacific	Missouri Pacific Railroad Company.
Mobile & Ohio	Mobile & Ohio Railroad Company.
N. Y., Chic. & St. L.	The New York, Chicago & St. Louis Railroad Co.
Penna.	Pennsylvania Railroad Company.
St. Louis & O'Fallon	The St. Louis & O'Fallon Ry. Co.
St. Louis & Ohio River	St. Louis & Ohio River Railroad.

Railroads per index	Name of railroad per body of guide
St. Louis Southwestern	St. Louis Southwestern Railway Company.
St. Louis, Troy & East	The St. Louis, Troy & Eastern R. R. Co.
Southern	Southern Railway Company.
Term. Assn. of St. L.	Terminal Railroad Association of St. Louis.
Wabash	Wabash Railway Company.

Authority: May 1925 Official Guide.

[fol. 778] EXHIBIT No. 23

Rausch

I. C. C., No. 1699, F. A. Leland, Agent

Official List of Open and Prepay Stations

No. 32

A Complete List of Freight Stations on Lines Named in United States, Canada and Mexico Showing Geographical Location of Stations, Stations Having Agents in Charge, Stations to Which Freight Charges Must be Prepaid, etc.

Effective July 15, 1924

Issued Under Authority of Rule 10 (i), Interstate Commerce Commission Tariff Circular 18-A

Issued by F. A. Leland, Agent, St. Louis, Mo.

Page 424:

Item No.	Stations	
795	St. Louis, Mo	C&A.
9630	St. Louis, Mo	C&EI.
3910	St. Louis, Mo	CB&Q.

Item No.	Stations	
5	St. Louis, Mo	CP&StL.
2310	St. Louis, Mo	CRI&P.
5	St. Louis, Mo	EStLC&W.
5	St. Louis, Mo	ITS.
14359	St. Louis, Mo	L&N.
5	St. Louis, Mo	MWR.
5	St. Louis, Mo	MKT.
5	St. Louis, Mo	MP.
11555	St. Louis, Mo	M&O.
2260	St. Louis, Mo	NYC&StL.
5760	St. Louis, Mo	Penna.
5	St. Louis, Mo	SLSF.
1050	St. Louis, Mo	StL&TR.
65	St. Louis, Mo	StLMBT.
5	St. Louis, Mo	StLSW.
200	St. Louis, Mo	StLT.
11710	St. Louis, Mo	Sou.
15	St. Louis, Mo	TRRA.
2090	St. Louis, Mo	Wab.
3345	St. Louis, Mo	Wab.
3380	St. Louis, (Levee) Mo	Wab.
105	St. Louis, Mo	WF.
14360	St. Louis, (Broadway Freight Depot) Mo	L&N.

St. Louis, May, 1925.

[fol. 779] EXHIBIT No. 24

Rausch

At St. Louis, Mo.

Traffic is interchanged between Missouri Pacific R. R. and the following roads, viz.:

Railroads	How	At
Baltimore & Ohio Railroad	T	
Chicago, Burlington & Quincy Railroad Co.	T	(1)
Chicago & Alton Railroad	T	
Chicago & Eastern Illinois Railway Company	T	

Railroads	How	At
Chicago, Rock Island & Pacific Railway Company	T W	(2)
Cleveland, Cincinnati, Chicago & St. Louis Ry...	T	
East St. Louis & Suburban Railway Co.	T	
East St. Louis, Columbia & Waterloo Railway...	T	
St. Louis-San Francisco Railway Company	D	(3)
Illinois Central Railroad Company	T	
Illinois Traction System	T	
Louisville & Nashville Railroad Company	T	
Louisville, Henderson & St. Louis Railway Co ...	T	
Missouri-Kansas-Texas Railroad Co.	T	(1)
Missouri Pacific Railroad Company	..	
Mobile & Ohio Railroad Company	T	
The New York, Chicago & St. Louis Railroad Company	T	
Pennsylvania Railroad Company	T	
St. Louis Merchants Bridge Terminal Railway..	D	(5)
St. Louis Southwestern Railway Company	T	
Southern Railway Company	T	
Terminal Railroad Association of St. Louis	D	(5)
Wabash Railway Company	D	(6)

[fol. 779½] D. Interchange made direct account track connections.

T. Through Terminal.

W. Through Wabash.

(1) Through Terminal at 12th Street, also Lesperance St. (2000 South).

(2) Through Terminal at 12th St. on Road haul business and through Wabash at Ewing Ave., (2900 West) on Switch business.

(3) Direct at Grand Ave. (3600 West).

(4) Through Terminal at 12th Street.

(5) Direct at 12th Street.

(6) Direct at Ewing Ave., (2900 West) on Wabash West and at Levee and Carr Street (1100 North) on Wabash North.

St. Louis, May, 1925.

[fol. 780] EXHIBIT No. 25

Rausch

Connections and Interchange of Railroads at Kansas City, Mo.

Between Missouri Pacific R. R. and—

Atchison, Topeka and Santa Fe	D	1
Chicago Burlington & Quincy	D	
Chicago & Alton	D	
Chicago Great Western	D	1
Chicago, Milwaukee & St. Paul	D	
Chicago, Rock Island & Pacific	D	2
Kansas City Southern	D	
Kansas City Railways	D	3
Kansas City, Clay County & St. Joseph (Electric)	4	
Kansas & Missouri Railway and Terminal	D	5
Kansas City, Kaw Valley & Western (Electric)	6	5
Kansas City Connecting	D	1
Kansas City Terminal	D	
Missouri and Kansas Railway (Electric)	N	
Missouri-Kansas & Texas	D	
Missouri Pacific	D	
Quincy, Omaha & Kansas City	D	
St. Louis San Francisco	D	
Union Depot Bridge & Terminal	C & D	7
Union Pacific	D	5
Wabash	D	

C—Connection as explained (#7 page 2).

D—Direct No additional charge made or absorbed.

[fol. 781] 1. In Kansas City, Mo., none in Kansas City, Kan.

2. In Kansas City, Kan., none in Kansas City, Mo.

3. In Dodson, Mo.

4. Through CB&Q $6.30 per car per CB&Q tariff G. F. O. 26-F, ICC 15625. Missouri Pacific R. R. as delivering line absorbs same as per Tariff 3117-H, ICC A-6516, K. C. C. C. & St. J. Ry. as delivering line absorbs same per tariff #7-A, ICC 15.

5. In Kansas City, Kan.

6. Through K. & M. Ry. & Terminal $6.00 per car per K. & M. Ry. & Terminal Tariff 1, ICC 1.

Mo. Pac. as delivering line absorbs same per tariff authority quoted in (4) above.

Kansas City, Kaw Valley & Western as delivering line absorbs same per tariff 2-H, ICC 40.

N—None in Kansas City, Mo. or Kansas City, Kaan.

7. Industries in north Kansas City, Mo. reached by Missouri Pacific R. R. no additional charge made. Industries on and reached by the CB&Q RR., that Line's switching charges all absorbed by the Missouri Pacific R. R. per Mo. Pac. Tariff 3117-H, ICC A-6516.

[fol. 782] RAUSCH No. 26

C. C. P. Rausch, A. F. P. M., June 19, 1925, Mo. Pac. R. R. Co., St. Louis, Mo.

Only two Supplements to this Tariff will be in effect at any time. P. S. C.-Mo. No. 1599, Cancels P. S. C.-Mo. No. 1321. I. C. C. No. A-6516 Cancels I. C. C. No. A-5609.

Authority No. H-5374

Missouri Pacific Railroad Company

Missouri Pacific

Freight tariff of local switching rates; also absorption of connecting lines' switching charges, etc., No. 3117-H, cancels No. 3117-G on classes and commodities between connections of and side tracks on the Missouri Pacific Railroad Company, within the switching limits (as described in Item No. 20 hereof; see also Items Nos. 1145 and 1150, or reissues) of Kansas City, Mo., and Kansas City, Kan.

Governed, except as otherwise provided herein, by the Consolidated Freight Classification No. 4, Western Classification No. 59, Agent R. C. Fyfe's I. C. C. No. 17, P. S. C.-Mo. W. C. No. 8 (Mo. Pac. No. 2-P), supplements thereto and reissues thereof, and by exceptions to said Classification

Mo. Pac. R. R. Circular No. 114-I., I. C. C. No. A-6209, P. S. C.-Mo. No. 1509, supplements thereto and reissues thereof. Issued May 6, 1925. Effective June 10, 1925.

Item No. 55. Collection of switching charges.—On all cars loaded with freight, originating at or destined to points beyond the switching limits of Kansas City, Mo.-Kan., the line moving the car to or from Kansas City will be held responsible for connecting lines' switching revenue, but nothing herein shall be construed as requiring an intermediate switching line to collect its revenue for intermediate switching service from any but the line delivering the car to it for such movement.

[fol. 783]

EXHIBIT No. 27

Rausch

Connection and Interchange of R. R. at Omaha, Neb. (on Thru Traffic)

Between—	C., B. & Q.	C. & N. W.	C. G. W.	C., M. & St. P.	C. R. I. & P.	C., St. P. M. & O.	Ill Cen.	M. P.	U. P.	Wab.
C. B. & Q.	..	..	..	..	..	D	..	D	..	..
C. & N. W.	..	..	..	..	..	D	..	D	..	..
C. G. W.	..	..	..	..	..	1	..	..	..	..
C. M. & St. P.	..	..	..	..	..	2	..	..	..	..
C. R. I. & P.	..	..	..	..	..	3	..	..	..	..
C. St. P. M. & O.	D	D	1	2	3	..	D	D	D	D
Ill. Cen.	..	..	..	..	..	D	..	D	..	..
Mo. Pac.	D	D	..	..	..	D	D	..	D	D
U. P.	..	..	..	..	..	D	..	D	..	..
Wab.	..	..	..	..	..	D	..	D	..	..

C. B. & Q.—Chicago Burlington & Quincy R. R.
C. & N. W.—Chicago & Northwestern Ry.
C. G. W.—Chicago Great Western R. R.
C. M. & St. P.—Chicago, Milwaukee & St. Paul Ry.
C. R. I. & P.—Chicago, Rock Island & Pacific Ry.

EXHIBIT No. 27—Continued

C. St. P. M. & O.—Chicago, St. Paul, Minneapolis & Omaha Ry.
Ill. Cen.—Illinois Central R. R.
Mo. Pac.—Missouri Pacific R. R.
U. P.—Union Pacific R. R.
Wab.—Wabash Ry.

D—Direct track connection. No additional charge made or absorbed.
1—Thru Un. Pac. R. R.
2—Thru Un. Pac. R. R.
3—Thru Un. Pac. R .R.

St. Louis, May, 1925.

[fol. 784] Connection and interchange of R. R. at South Omaha (on Thru Traffic)

Between—	C., B. & Q.	C. & N. W.	C. G. W.	C., M. & St. P.	C., R. I. & P.	Ill. Cen.	Mo. Pac.	U. P.
C. B. & Q.	..	..	..	...	...	...	...	...
C. & N. W.	..	..	..	...	...	...	D	...
C. G. W.	..	..	..	...	...	...	4	...
C. M. & St. P.	..	..	..	...	...	...	5	...
C. R. I. & P.	..	..	..	...	...	...	6	...
Ill. Cen.	..	..	..	...	...	...	...	...
Mo. Pac.	..	D	4	5	6	...	...	...
U. P.	..	..	..	...	...	...	...	...

C. B. & Q.—Chicago Burlington & Quincy R. R.
C. & N. W.—Chicago & Northwestern Ry.
C. G. W.—Chicago Great Western R. R.
C. M. & St. P.—Chicago, Milwaukee & St. Paul Ry.
C. R. I. & P.—Chicago, Rock Island & Pacific Ry.
Mo. Pac.—Missouri Pacific R. R.
U. P.—Union Pacific R. R.

D—Direct track connection. No additional charge made or absorbed.
4—Thru Union Stock yards.
5—Thru Union Stock yards.
6—Thru Union Stock yards.

St. Louis, May, 1925.

[fol. 785] Connection and Interchange of Railroad at Council Bluffs, Ia. (on Thru Traffic)

Between—	C., B. & Q.	C. & N. W.	C. G. W.	C., M. & St. P.	C., R. I. & P.	Ill. Cen.	U. P.	Wab.
C. B. & Q.	..	D	D	D	D	D	D	D
C. & N. W.	D	..	D	D	D	D	D	D
C. G. W.	D	D	..	7	D	D	D	D

EXHIBIT No. 27—Continued

Between—	C., B. & Q.	C. & N. W.	C. G. W.	C., M. & St. P.	C., R. I. & P.	Ill. Cen.	U. P.	Wab.
C. M. & St. P.	D	D	7		D	D	D	D
C. R. I. & P.	D	D	D	D		D	D	D
Ill. Cen.	D	D	D	D	D		D	D
U. P.	D	D	D	D	D	D		D
Wab.	D	D	D	D	D	D	D	

C. B. & Q.—Chicago Burlington & Quincy R. R.
C. & N. W.—Chicago & Northwestern Ry.
C. G. W.—Chicago Great Western R. R.
C. M. & St. P.—Chicago, Milwaukee & St. Paul Ry.
C. R. I. & P.—Chicago, Rock Island & Pacific Ry.
Ill. Cen.—Illinois Central R. R.
U. P.—Union Pacific R. R.
Wab.—Wabash Ry.

D—Direct track connection. No additional charge made or absorbed.
7—Thru C. B. & Q.

[fol. 786] Omaha No. 1 Explanation

Thru Un. Pac. $3.60 per car per tariff No. 105-D, I. C. C. No. 3530, C. St. P. M. & O. absorb same as delivering line on competitive traffic per tariff No. 3300-H I. C. C. No. 4610, C. G. W. absorbs same as delivering line on competitive and non competitive traffic, per tariff No. 26-F, I. C. C. No. 15625.

No. 2 Explanation

Thru Un. Pac. $3.60 per car per tariff No. 105-D, I. C. C. No. 3530 C. St P. M. & O absorb same as delivering line on competitive traffic per tariff No. 3300-H I. C. C. No. 4610 C. M. & St. P. absorbs same as delivering line on competitive and non competitive traffic, per tariff No. 6000-L I. C. C. No. B-4907.

No. 3 Explanation

Thru Un. Pac. $3.60 per car per tariff No. 105-D, I. C. C. No. 3530, C. St. P. M. & O. absorb same as delivering line on competitive traffic per tariff No. 3300-H I. C. C. No. 4610, C. R. I. & P. absorbs same as delivering line on competitive and non competitive traffic, per tariff No. 21432-J. I. C. C. No. C-11399.

[fol. 787] No. 4 Explanation

Thru U. S. Yards $4.56 per car per tariff No. 15, I. C. C. No. 18 Mo. Pac. absorb same as delivering line on competitive and non competitive traffic per tariff No. Neb. 4-C I. C. C. No. I. C. C. 12 C. G. W. absorbs same as delivering line on competitive and non competitive traffic per tariff No. 26-F I. C. C. No. 15625.

No. 5 Explanation

Thru U. S. Yards $4.56 per car per tariff No. 15, I. C. C. No. 18 Mo. Pac. absorb same as delivering line on competitive and non competitive traffic per tariff No. 4-C I. C. C. No. 12 C. M. & St. P. absorbs same as delivering line on competitive and non competitive traffic, per tariff No. 6000-L I. C. C. No. B-4907.

No. 6 Explanation

Thru U. S. Yards $4.56 per car per tariff No. 15, I. C. C. No. 18 Mo. Pac. absorb same as delivering line on competitive and non competitive traffic per tariff No. 4-C I. C. C. No. 12 C. R. I. & P. absorbs same as delivering line on competitive and non competitive traffic per tariff No. 21432.

[fols. 788 & 789] No. 7 Explanation

Thru C. B. & Q. $2.25 per car per tariff No. 26-F, I. C. C. No. 15625 C. G. W. absorbs same as delivering line on competitive and non competitive traffic per tariff No. 30-F, I. C. C. No. 5116 C. M. & St. P. absorbs same as delivering line on competitive and non competitive traffic, per tariff No. 6000-L I. C. C. No. B-4907.

[fol. 790]

EXHIBIT No. 29

Rausch

Connection and Interchange of Railroads at Wichita, Kans. (On Through Traffic)

Between	A., T. & S. F.	A. V. I. (Electric)	C., R. I. & P.	K. C., M. & O.	M. V.	Mo. P.	St. L.-S. F.
A. T. & S. F.	..	1	3	D	D	4	5
A. V. I. (Electric)	1	..	D	D	2	D	D
C., R. I. & P.	D	3	..	D	D	D	D
K. C., M. & O.	D	D	D	..	D	D	D
M. V.	2	D	D	D	..	D	6
M. P.	D	4	D	D	D	..	D
St. L.-S. F.	D	5	D	D	6	D	..

D. Direct.
1. Through K. C., M. & O.
2. Through K. C., M. & O. or Mo. Pac.
3. Through K. C., M. & O.
4. Through K. C., M. & O.
5. Through K. C., M. & O.
6. Through Mo. Pac. or K. C., M. & O.

A., T. & S. F.—Atchison, Topeka & Santa Fe Ry.
A. V. I.—Arkansas Valley Interurban.
C., R. I. & P.—Chicago, Rock Island & Pacific Ry.
K. C., M. & O.—Kansas City, Mexico & Orient R. R.
M. P.—Missouri Pacific R. R.
M. V.—Midland Valley R. R.
St. L.-S. F.—St. Louis-San Francisco Ry.

St. Louis, May, 1925.

[fols. 791-815] C. C. P. Rausch, A. F. T. M. Jun. 12, 1924.
Mo. Pac. R. R. Co., St. Louis, Mo.

Only two supplements to this tariff will be in effect at any time. P. S. C. Mo. No. 1504 Cancels P. S. C. Mo. No. 1336. Colo. P. U. C. No. 77 Cancels Colo. P. U. C. No. 65. I. C. C. No A-6185 Cancels I. C. C. No. A-5664.

1400. Authority No. H-3764

Missouri Pacific Railroad Company

Missouri Pacific

Missouri Pacific Railroad Corporation in Nebraska

FX 5, No. 1

Freight tariff of switching rates, drayage and absorptions, No. 4778-E, Cancels No. 4778-D, applicable at all stations on Missouri Pacific Railroad in Missouri (except that portion formerly known as St. Louis, Iron Mountain & Southern Railway, i. e., East of Carthage and South of St. Louis), Kansas and Colorado; Nebraska on the Missouri Pacific Railroad in Nebraska.

Issued March 25, 1924. Effective May 3, 1924. (Except as noted in Items Nos. 6 and 55.)

Item No. 45. Transfer Charge.—Where through rates are in effect, the transfer charge will be paid by line making delivery at junction points.

Item No. 50. Collection of Charges.—The General Auditor will instruct agents as to manner of collecting and paying charges in accordance with authority given herein.

Mo. Pac. 4778-E.

[fol. 816] EXHIBIT No. 48

I. C. C. Docket 16697

The Chicago, Rock Island & Pacific Railway Co.

Practices governing interchange of through traffic and methods employed in allocating costs to tenant lines covering operation of joint facility yards, traffic interchanged St. Louis, 1924, on which Rock Island lines paid intermediate charges in both directions.

Compiled by H. R. Fertig, Chief of Yard & Terminal Operations, Rock Island Lines.

[fol. 817] Contents

Page 1. Westbound traffic received by Rock Island, St. Louis, 1924.
Page 2. Eastbound traffic delivered by Rock Island, St. Louis, 1924.
Page 3. Allocation of Rock Island proportional expense, 1924, Iowa Transfer, Des Moines, Ia. Method used in arriving at cost to tenant lines, Iowa Transfer, covering traffic delivered through Transfer.
Page 4. Traffic delivered by tenant lines Iowa Transfer, 1924; percentage of total traffic; proportional cost of operation; average cost per car delivered through Transfer.
Page 5. Method of allocating proportional expense to each Tenant of Minnesota Transfer Railway.
Page 6. Method used in arriving at cost to tenant lines, Minnesota Transfer Railway, of operating and maintaining Transfer.
Page 7. Practice of Interchange, Memphis, Tenn.
Page 8. Practice of Interchange, Peoria, Ill.
Page 9. Practice of Interchange, Pekin, Ill.
Page 10. Practice of Interchange, Kansas City, Mo.-Kas.
Page 11. Practice of Interchange, Ft. Worth, Texas.
Page 12. Practice of Interchange, St. Paul-Minneapolis, Minn.

Page 13. Practice of Interchange, Des Moines, Iowa.
Page 14. Practice of Interchange, Rock Island, Ill.
Page 15. Practice of Interchange, Davenport, Iowa
Page 16. Practice of Interchange, Moline, Illinois
Page 17. Practice of Interchange, East Moline, Ill.
Page 18. Practice of Interchange, Silvis, Illinois
} Tri-Cities
Page 19. Practice of Interchange, Indianapolis, Ind.
Page 20. Practice of Interchange, Cleveland, Ohio.

[fol. 818] Through westbound traffic delivered Rock Island by connections St. Louis on which Rock Island paid intermediate switching charges.

Westbound, 1924, Carrie Avenue Yard

1924, months	Number loaded cars	Intermediate paid by Rock Island	Average per car
January	818	$8,147.74	$9.95
February	778	8,014.94	10.30
March	842	8,318.45	9.90
April	736	7,325.10	9.95
May	675	7,077.33	10.50
June	582	5,507.63	9.45
July	629	6,305.41	10.05
August	608	5,933.72	9.75
September	883	9,136.87	10.35
October	857	9,013.16	10.50
November	848	8,071.99	9.40
December	767	7,845.36	10.20
Total	9,023	$90,697.70	$10.10

This tabulation covers only the through carload and through L. C. L. traffic handled in accounts at Carrie Avenue (outer yard) office; does not include traffic handled in accounts at Broadway (St. Louis) station received in merchandise cars or by dray at Broadway station.

[fol. 819] Eastbound through traffic delivered connecting lines by Rock Island, St. Louis, through Carrie Avenue (outer yard), on which line Rock Island paid intermediate switching charges eastbound

1924, months	Number cars	Intermediate switching paid by Rock Island	Average per car
January	850	$8,056.76	$9.60
February	720	6,814.70	9.75
March	699	7,294.69	10.45
April	760	7,735.94	10.15
May	787	8,630.70	10.95
June	1,009	9,039.63	8.95
July	988	9,943.43	9.95
August	1,037	11,618.82	11.20
September	1,685	21,837.38	12.95
October	1,331	14,215.79	10.65
November	1,155	12,189.52	10.55
December	1,119	11,705.56	10.45
Total	12,140	$129,082.92	$10.65

This tabulation represents the through traffic delivered to connecting lines through Carrie Avenue (outer yard), St. Louis, and in addition such cars of perishable freight diverted by Broadway station St. Louis to connecting lines on through billing; does not include traffic handled through Broadway station St. Louis, except as noted above.

[fol. 820] Allocation of Rock Island Proportional Expense of Operating Iowa Transfer Pool Yard, Des Moines, Iowa, 1924

Allocated by Iowa Transfer Ry. Co. to account	Amount allocated to each of the separate accounts	Proportion of total expense allocated to each account
Joint Facility Rents (Income)	$970.13	5.71%
Maintenance Joint Tracks, Cr.	1,139.24	6.72%
Maintenance Jt. Equipment, Cr.	571.31	3.35%
Operating Joint Yards, Cr.	8,659.39	51.01%

Allocated by Iowa Transfer Ry. Co. to account	Amount allocated to each of the separate accounts	Proportion of total expense allocated to each account
Joint Facilities, General, Cr	347.46	2.04%
Car Repairs	5,378.64	31.17%
Total expense to Rock Island based on total cars delivered by Rock Island through Transfer	$16,975.17	100.00%
Total expense allocated to Tenant Lines of Iowa Transfer based on total cars delivered by each Tenant through Transfer	$87,042.92	
Rock Island proportion of total expense 1924		19.582%

Excerpt from Paragraph VI, Contract Between Iowa Transfer Ry. and Tenants

"Fourth. Having so ascertained the monthly aggregate of all the items and sums mentioned in Paragraph- First, Second and Third, the parties of the second part shall pay to the party of the first part that proportion of the total sum which the number of freight cars delivered by each of the said parties to all the other parties, (within a radius of five miles of said transfer) bears to the total number of freight cars delivered by all of the said parties to all the other parties to this agreement within the same territory during the preceeding month, whether through the yard of the Iowa Transfer Railway Company or otherwise."

[fol. 821] Interchange of loaded and empty cars through Iowa Transfer Pool Yard, Des Moines, Iowa, 1924, and allocation of expense of operating pool yard to tenant lines based on percentage of total cars delivered through transfer by all roads

Allocation of Operating Expenses Based on Percentage of Total Cars Delivered

Delivering tenant lines	Total cars delivered	Percentage of total cars	Expense allocated to each tenant	Cost per car
Chicago, Rock Island & Pacific Railway Co.	31,290	19.582%	$16,975.17	$.542
Chicago, Burlington & Quincy Railroad Co.	16,902	10.578%	9,226.55	.545
Chicago Great Western Railroad Co.	25,828	16.247%	14,100.95	.546
Des Moines Union Railway Company*	38,646	24.253%	21,064.39	.545
Ft. Dodge, Des Moines & Southern Railway Co.	9,129	5.716%	4,978.86	.534
Chicago & Northwestern Railway Company	23,822	14.934%	12,969.40	.544
Minneapolis & St. Louis Railroad Company	13,165	8.690%	7,727.60	.586
All lines above	159,784	100.000%	$87,042.92	$.544

[fol. 822] Basis of allocation of expenses operating Minnesota Transfer Railway Company, May, 1925, based on total pounds of freight delivered and received by each of the tenant lines of the Minnesota Transfer Railway Co.

Tenant lines	Pounds of freight			Per cent, total
	Delivered	Received	Total	
Chicago, Milwaukee & St. Paul Railway Company	98,824,463	88,821,340	187,645,803	8.83%

NOTE.—*Des Moines Union Railway Company handles traffic of Chicago, Milwaukee & St. Paul and Wabash Railroad Companies under contract; delivery to Union constitutes delivery to the tenant lines of the Union Company.

Basis of Allocation of Expenses, etc.—Continued

Tenant lines	Pounds of freight			Per cent, total
	Delivered	Received	Total	
Chicago, St. Paul, Minneapolis & Omaha Ry. Co.	155,056,916	79,205,186	234,262,102	11.02%
Great Northern Railway Co. (including Eastern Ry.)	133,285,138	270,953,121	404,238,259	19.02%
Northern Pacific Ry Co	122,794,120	308,038,514	430,832,634	20.27%
Minneapolis & St. Louis Railroad Company	95,220,303	70,249,177	165,469,480	7.78%
Chicago Great Western Railroad Company	66,279,657	48,895,345	115,175,002	5.42%
Chicago, Burlington & Quincy Railroad Company	167,163,050	67,636,689	234,799,739	11.05%
Minneapolis, St. Paul & Sault Ste Marie Ry. Co.	112,179,719	112,358,226	224,537,945	10.56%
Chicago, Rock Island & Pacific Railway Company	81,743,857	46,904,780	128,648,637	6.05%
Total these lines	1,032,547,223	1,093,062,378	2,125,609,601	100.00%

MEMPHIS

From / To	CRI&P	IC-YMV	L&N	NC&SL	Sou-M&O	MP	SL-SW	Union	SL-SF	Warrior
CRI&P		D.	D.	D.	D.	Union	D.	D.	D.	D
IC-YMV	D.		D.	D.	D.	Union	D.	D.	D.	D.
L&N	D.	D.		D.	D	Union	D.	D.	D.	D.
NC&SL	D	D.	D		D	Union	D	D.	D.	D.
Sou-M&O	D	D.	D.	D.		Union	D.	D	D.	Union
MP	Union	Union	Union	Union	Union		Union	D.	Union	Union
SL-SW	D	D.	D.	D.	D.	Union		D.	D.	D.
Union	D.	D.	D.	D.	D.	D.	D		D.	D.
SL-SF.	D.	D.	D.	D	D.	Union	D.	D.		D.
Warrior	D.	D.	D.	D.	Union	Union	D.	D.	D.	

Mississippi Warrior Service (Federal Barge Line) Tariff 9-D, ICC 136 Item 70: Intermediate charge $5.00 paid by delivering line.
Union R.R. handles Missouri Pacific traffic under contract, no intermediate tariff charge
Union RR tariff 5P, ICC 37, item 55, $2.25 per car on traffic to and from Southern Ry. and Mississippi Warrior Service, paid by Southern Ry. in both directions.

Note: D-Direct interchange

PEORIA DISTRICT

From / To	C&A	CB&Q	CP&SL	CRI&P	CCC&SL (P&E)	IC	ITS	M&SL	NYC&SL (LE&W)	P&PU	PRT	PL	TP&W
C&A		D.	D.	D.	D.	D.	P&PU	D.	D.	D.	D.	D.	D.
CB&Q	D.		D.	D.	D.	D.	P&PU	PRT P&PU CRI&P	D.	D.	D.	D.	D.
CP&SL	D.	D.		D.	D.	D.	P&PU	D	D.	D.	D.	D.	D.
CRI&P	D.	D.	D.		D.	D.	P&PU	D.	D.	D.	D.	D.	D.
CCC&SL (P&E)	D.	D.	D.	D.		D.	P&PU	D.	D.	D.	D.	D.	D.
IC	D.	D.	D.	D.	D.		P&PU	D.	D.	D.	D.	D.	D.
ITS	P&PU	P&PU	P&PU	P&PU	P&PU	P&PU		P&PU	P&PU	D.	P&PU	P&PU	P&PU
M&SL	D.	PRT P&PU CRI&P	D.	D.	D.	D	P&PU		D	D.	D.	D.	D.
NYC&SL (LE&W)	D.	D.	D.	D.	D.	D.	P&PU	D.		D.	D.	D.	D.
P&PU	D.	D.	D.	D.	D.	D.	D.	D	D.		D.	D.	D.
PRT	D.	D.	D.	D.	D.	D.	P&PU	D.	D.	D.		D.	D.
PL	D.	D.	D.	D.	D.	D	P&PU	D.	D.	D.	D.		D.
TP&W	D.	D.	D.	D.	D.	D.	P&PU	D.	D.	D.	D.	D.	

CRI&P - E B Boyd 152E - ICC A1542: Item 285 $3.60
P&PU - " " " " " 160 $3.15
PRT - " " " " " 160 $3.15

Note: D-Direct Interchange.

PEKIN

To \ From	AT&SF	C&A	CP&SL	CCC&SL	IC	P&PU	PRT
AT&SF		D.	P&PU or PRT	D.	P&PU or PRT	D.	D.
C&A	D.		PRT	PRT	PRT	PRT	D.
CP&SL	P&PU or PRT	PRT		P&PU or PRT	P&PU or PRT	D.	D.
CCC&SL	D.	PRT	P&PU or PRT		P&PU or PRT	D.	D.
IC	P&PU or PRT	PRT	P&PU or PRT	P&PU or PRT		D.	D.
P&PU	D.	PRT	D.	D.	D.		D.
PRT	D.	D.	D.	D.	D.	D	

CCC&SL and C&A have direct connection but interchange is handled through PRT.

P&PU - E.B.Boyd's Tariff 152-E, Item 160. ICC A1542.
PRT - " " " " " 160.

Note: D-Direct Interchange.

KANSAS CITY

From / To	A.T.&S.F.	C.R.I.&P.	C.&A.	C.B.&Q.	C.M.&S.P.	C.G.W.	K.C.T.	K.C.S.	M.P.	M.K.&T.	S.L.S.F.	U.P.	WABASH
A.T.&S.F.		D.	D.	D.	D.	D.	D.	D.	D.	D	D	D.	D
C.R.I.&P.	D.		D.	D.	D.	KCS	D.	D.	D	D.	D.	D	D
C.&A.	D.	D		D	D.	KCS	D.	D	D.	D.	D.	D	D
C.B.&Q.	D.	D	D.		D.	KCS	D.	D.	D.	D.	D.	D	D
C.M.&S.P.	D.	D	D.	D.		KCS	D.	D	D	D.	D.	D.	D
C.G.W.	D.	KCS	KCS	KCS	KCS		D.	D.	KCS	D.	D.	D.	KCS
K.C.T.	D	D.	D.	D.	D.	D.		D.	D.	D.	D	D.	D
K.C.S.	D.	D.	D.	D.	D.	D.	D.		D	D.	D.	D.	D.
M.P.	D.	D.	D.	D	D.	KCS	D	D.		D	D.	D	D
M.K.&T.	D.	D.	D.	D.	D	D.	D.	D.	D		D	D.	D
S.L.&S.F.	D	D.	D	D	D.	D.	D.	D	D.	D.		D.	D
U.P.	D.	D.	D.	D	D.	D.	D.	D	D	D.	D		D
WABASH	D.	D.	D.	D.	D.	KCS	D.	D.	D.	D.	D.	D.	

KCS Tariff 4-S, ICC 4410 Item 1505 $3.60

Note: D-Direct Interchange.

FT. WORTH

From / To	CRI&P	SL-SF	FW&DC	AT&SF	H&TC	MK&T	T&P	T&BV	SL-SW	I&GN
CRI&P		D.	D.	D.	D.	D.	D.	FW&DC	D.	D.
SL-SF	D.		D.	D.	D.	D.	D.	FW&DC	D.	D.
FW&DC	D.	D.		D.	D.	D.	D.	D.	D.	D.
AT&SF	D.	D.	D.		D.	D.	D.	FW&DC	D.	D.
H&TC	D.	D.	D.	D.		D.	D.	FW&DC	FW&DC	D.
MK&T	D.	D.	D.	D.	D.		D.	FW&DC	Belt	D.
T&P	D.	D.	D.	D.	D.	D.		FW&DC	Belt	D.
T&BV	FW&DC	FW&DC	D.	FW&DC	FW&DC	FW&DC	FW&DC		FW&DC	FW&DC
SL-SW	D.	D.	D.	D.	FW&DC	Belt	Belt	FW&DC		T&P Belt
I&GN	D.	D.	D.	D.	D.	D.	D.	FW&DC	T&P Belt	

T&BV is tenant line of FW&DC.
Ft Worth Belt Ry. Tariff 18 $3.92 absorbed by receiving carrier on competitive business and by delivering line on non-competitive.
T&P charge of $2.25 is covered by operating agreement.
FW&DC tariff charge $1.80 paid by delivering carrier.

Note: D-Direct interchange.

ST. PAUL.

MINNEAPOLIS

To \ From		CRI&P	CB&Q	CGW	CM&SP	CSPMO	GN	M&SL	SOO	NP	MN&S	MW	MACR
CRI&P	Interchange Tariff Volume		MT	MT	MT	MT	MT	MT	MT	MT	G.N. MMS-26 ICC-20	G.N MW-8B ICC-6	SOO
CB&Q		MT		MT	MT	MT	Direct	MT	MT	MT	Direct	Direct	SOO
CGW		MT	MT		MT	MT	MT	MT	MT	MT	G.N. MMS-26	G.N. MW-8B	SOO
CM&SP		MT	MT	MT		MT	MT	MT	MT	MT	GN MMS-26	G.N. MW-8B	SOO
CSPMO		MT	MT	MT	MT		MT	MT	MT	MT	G.N. MMS-26	G.N. MW-8B	SOO
GN		MT	Direct	MT	MT	MT		MT	MT	MT	Direct	Direct	SOO
M&SL		MT	MT	MT	MT	MT	MT		MT	MT	G.N. MMS-26	G.N. MW-8B	SOO
SOO		MT	MT	MT	MT	MT	MT	MT		MT	G.N. MMS-26	G.N. MW-8B	Direct
NP		MT	MT	MT	MT	MT	MT	MT	MT		G.N. MMS-26	G.N MW-8B	SOO
MN&S		G.N. RI-16400 ICC-11233	Direct	GN CGW30F ICC-5116	GN SP. 6000 ICC-8497	GN O-3300H ICC-4610	Direct	GN SL-44B ICC-8530	GN Soo 32300 ICC 5893	GN NP-66-0 ICC-7853		Direct	SOO GN
MW		GN RI-16400 ICC-11233	Direct	GN CGW30F ICC 5116	GN SP. 6000 ICC-8497	GN Oma. 3300 H	Direct	GN SL-44B	GN Soo-32300	GN NP-66-0	Direct		SOO GN
MACR		SOO	SOO Q.26 F ICC-15225	SOO CGW-30 F	SOO CMSP. 6000-L	SOO Oma-3300 H	SOO GN-12006	SOO SL-44B	Direct	SOO NP-66-0	GN-SOO MMS-26 ICC-20	GN-Soo MW-8B ICC-6	

MT - Minnesota Transfer Joint Interchange Yard - See By-Laws [Article XI] for apportionment of expense of operation.

Tariffs- GN1200G, ICC-5990, $1.80; SooL 32300, ICC-5893; covers intermediate switch moves. Delivering Carriers tariffs authorizing absorption of intermediate switch charges are shown in chart.

829

Volume - See M.T. Form 2 for tonnage handled in May. 1925.

DES MOINES

To \ From	Interchange Tariff Volume	CRI&P	CGW	C&NW	DMU	CB&Q	M&SL	FDDM&S	DM&CI
CRI&P			I.T. Contract 923	I.T. Contract 5362	I.T. Contract 4646	I.T. Contract 2032	I.T. Contract 1381	I.T. Contract 1531	Direct 941
CGW		I.T. Contract 2130		I.T. Contract	I.T. Contract	I.T. Contract	I.T. Contract	I.T. Contract	Direct
C&NW		I.T. Contract 4866	I.T. Contract		I.T. Contract	I.T. Contract	I.T. Contract	I.T. Contract	Direct
DMU		I.T. Contract 5782	I.T. Contract	I.T. Contract		I.T. Contract	I.T. Contract	I.T. Contract	CRI&P-I.T. RI-21432 $5
CB&Q		I.T. Contract 2164	I.T. Contract	I.T. Contract	I.T. Contract		I.T. Contract	I.T. Contract	CRI&P-I.T. RI-21432 $5
M&SL		I.T. Contract 1352	I.T. Contract	I.T. Contract	I.T. Contract	I.T. Contract		I.T. Contract	CRI&P-I.T. RI-21432 $5
FDDM&S		I.T. Contract 1255	I.T. Contract	I.T. Contract	I.T. Contract	I.T. Contract	I.T. Contract		Direct
DM&CI		Direct 633	Direct	Direct	I.T.-CRI&P RI-21432 $5 ICC-C11399	I.T.-CRI&P RI-21432 $5 ICC-C11399	I.T.-CRI&P RI-21432 $5 ICC-C11399	Direct	

DMU - Handles CM&SP and Wabash business under contract.
Volume - Loaded Cars handled 12 months July 1924 - June 1925.
I.T. - Iowa Transfer joint interchange yard - See contract.
DM&CI - Delivering carrier pays CRI&P intermediate switch charge
CM&SP - 4900 - J, ICC - B-4979.
DM&CI - 100 - A, ICC - 3.
CB&Q - 26 - F ICC - 15625
M&SL - 44 - B, ICC - B-530
C&NW - 13237 - V - Iowa.
CGW - 30 - F - ICC - 5116
Wabash - G-5000 - ICC - 5865

ROCK ISLAND

To \ From	CRI&P	CB&Q	CM&SP	RIS	DRI&NW
CRI&P	Interchange Traffic Tariff Volume-Switch - -Thru	Direct Switch Only RI-21432. $2.70 83	Direct * Thru & Switch RI-21432. $2.70 32 71	Direct Thru & Switch RI-21432. $2.70 55 210	Direct Switch Only RI-21432 $2.70 1
CB&Q	Direct Switch Only CBQ-26F. $2.70 202		Direct * Switch Only CBQ-26F. $2.70	Direct Thru & Switch CBQ26F. $2.70	Direct Switch Only CBQ26F. $2.70
CM&SP	Direct * Thru & Switch DRI-2561 $2.70 42 60	Direct * Switch Only DRI-2561 $2.70		CRI&P Thru & Switch RI-21432 $3.60	Direct * Switch Only DRI-2561 $2.70
RIS	Direct Thru & Switch RI-21432 $2.70 22 251	Direct Thru & Switch CBQ26F $2.70	CRI&P Thru & Switch RI-21432 $3.60		
DRI&NW	Direct Switch Only DRI-2561 $2.70 42	Direct Switch Only DRI-2561 $2.70	Direct* Switch Only DRI-2561 $2.70		

Volume = Loads handled May 1925

* CM&SP switching performed by DRI&NW engines under contract

DAVENPORT

To \ From		CRI&P	CB&Q	CM&SP	DRI&NW
CRI&P	Interchange Traffic Tariff Volume- Switch " - Thru		DRI&NW Switch Only DRI-2561 $2.70 94	Direct # Switch Only RI-21432 $2.70 221	Direct Switch Only RI-21432 $2.70 86
CB&Q		DRI&NW Switch Only DRI-2561 $2.70 60		DRI&NW Switch Only DRI-2561 $2.70	Direct Switch Only CBQ 26F $2.70
CM&SP		Direct # Switch Only DRI-2561 $2.70 347	DRI&NW Switch Only DRI-2561 $2.70		Direct Switch Only DRI-256 $2.70
DRI&NW		Direct Switch Only DRI-2561 $2.70 317	Direct Switch Only DRI-2561 $2.70	Direct # Switch Only DRI-2561 $2.70	

Volume = Loads handled May 1925
# CM&SP switching performed by DRI&NW engines under contract.

MOLINE

To \ From		CRI&P	CB&Q	CM&SP	DRI&NW
CRI&P	Interchange Traffic Tariff Volume-Switch " -Thru.		Direct Switch Only RI-21432 $2.70 93	Direct * Switch Only RI-21432 $2.70 34	Direct Switch Only RI-21432 $2.70 61
CB&Q		Direct Switch Only CBQ 26F $2.70 80		Direct * Switch Only CBQ 26F $2.70	Direct Switch Only CBQ 26F $2.70
CM&SP		Direct * Switch Only DRI-2561 $2.70 32	Direct * Switch Only DRI-2561 $2.70		Direct * Switch Only DRI-2561 $2.70
DRI&NW		Direct Switch Only DRI-2561 $2.70 60	Direct Switch Only DRI-2561 $2.70	Direct * Switch Only DRI-2561 $2.70	

Volume = Loads handled May 1925
* CM&SP switching performed by DRI&NW engines under contract.

EAST MOLINE

To \ From		CRI&P	CB&Q	CM&SP	DRI&NW
CRI&P	Interchange Traffic Tariff Volume-Switch " -Thru		CM&SP * Switch Only DRI-2561 $2.70 2	Direct * Switch Only RI-21432 $2.70 109	CM&SP * Switch Only DRI-2561 $2.70 48
CB&Q		CM&SP * Switch Only DRI-2561 $2.70 2		Direct * Switch & Thru CBQ 26F $2.70	Direct Switch Only CBQ 26F $2.70
CM&SP		Direct * Switch Only DRI-2561 $2.70 62	Direct Thru & Switch DRI-2561 $2.70		Direct Switch Only DRI-2561 $2.70
DRI&NW		CM&SP * Switch Only DRI-2561 $2.70 50	Direct Switch Only DRI-2561 $2.70	Direct * Switch Only DRI-2561 $2.70	

Volume - loads handled May 1925

* CM&SP switching performed by DRI&NW engines under contract

SILVIS

To \ From		CRI&P	CB&O
CRI&P	Interchange Traffic Tariff Volume-Switch " -Thru		Direct Thru & Switch RI-21432 $2.70 14 275
CB&Q		Direct Thru & Switch CBQ 26F $2.70 0 429	

Volume = Loads handed May 1925

INDIANAPOLIS

To \ From	CI&L	CI&W	CCC&SL	IC	NYC&SL	PL	Belt
CI&L		B	B	B	B	B	D
CI&W	B		B	B	B	B	D
CCC&SL	B	B		B	B	B	D
IC	B	B	B		B	B	D
NYC&SL	B	B	B	B		B	D
PL	B	B	B	B	B		D
Belt	D	D	D	D	D	D	

Note: D-Direct interchange
B-Interchange via Indianapolis Union Ry (Belt) Indianapolis Union Ry acts as intermediate line under contract based on wheelage, delivering line paying

Data furnished by Mr D.J.Birmingham, General Agent. Rock Island Lines, Indianapolis, Ind.

CLEVELAND

To \ From	B&O	CCC&SL	Erie	NYC	NYC&SL	PL	W&LE
B&O		D	D	D	D	D	D
CCC&SL	D		D	D	D	D	D
Erie	D	D		CCC&SL	D	D	CCC&SL
NYC	D	D	CCC&SL		D	D	CCC&SL
NYC&SL	D	D	D	D		Erie	CCC&SL
PL	D	D	D	D	Erie		D
W&LE	D	D	CCC&SL	CCC&SL	CCC&SL	D	

CCC&SL Tariff ICC-8094 : $3.15, delivering line pays
NYC " " 1225 $3.15, " " "
W&LE " " 1534 $3.15, " " "
PL to NYC&SL and vice versa via Erie : contract.

Note: D-Direct Interchange.

[fol. 823] Excerpt from by-laws of Minnesota Transfer Railway, covering manner of allocating expense of operation among tenant lines

Article XI.

"The expense of conducting the current business of the company and the repairs about the yard and premises of the company, shall be borne and paid by the parties entitled to transact busines upon the said premises, in proportion to the quantities of live-stock and other freight delivered and received by them, respectively, at the said premises, i. e., each party entitled to transact business at the said premises shall contribute to the payment of the said expenses in the same proportion that the number of pounds of freight received by such party at the said premises for shipment over its line or lines of railroad, added to the number of pounds of freight brought to the said premises by the same party, either for final delivery thereat or for transfer to some other carrier, shall bear to the whole number of pounds of freight during the same period of time brought to the said premises added to the whole number of pounds of freight taken therefrom over the lines of railroads of all the parties doing business at the said premises, added together."

(Here follow side folio pages 824-837)

[fols. 838-850] EXHIBIT No. 50

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DIVISION OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI

Case No. 5250

THE UNITED STATES OF AMERICA, Complainant,

v.

THE TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS et al., Defendants

Copy of Final Decree, Dated January 29, 1914, Filed March 2, 1914, and Order, Dated January 29, 1917, Filed February 7, 1917, Amending Same

[fol. 851] IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DIVISION OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI

THE UNITED STATES OF AMERICA, Complainant,

vs.

THE TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS et al., Defendants

This cause came on to be heard at this term, and it appearing that the United States of America, complainant, heretofore appealed to the Supreme Court of the United States from the final decree of the Circuit Court of the United States in and for the Eastern Division of the Eastern Judicial District of Missouri, dismissing this cause on June 6, 1910; and the Supreme Court of the United States, at its October Term, 1911, having duly heard said appeal upon the Transcript of the Record, and having thereupon on the 22nd day of April, 1912, ordered, adjudged and decreed that the said decree of the United States Circuit Court in and for the Eastern Division of the Eastern Judicial District of Missouri in this cause be and the same is hereby reversed, and that said cause is remanded to this Court for further proceedings in accordance with the mandate of the

Supreme Court of the United States in this cause, bearing date the twenty-third of May, 1912.

[fol. 852] And afterwards, to wit, it appearing that on the 16th day of June, 1913, a preliminary decree was entered in accordance with the mandate of the Supreme Court, now, therefore, it is ordered, adjudged and decreed by the Court as follows:

1. The Terminal Railroad Association of St. Louis is an unlawful combination contrary to the Anti-trust Act of July 2, 1890 (26 Stat. 209), when it and the various bridge and terminal companies composing it are operated as railroad transportation companies. The combination may, however, exist and continue as a lawful unification of terminal facilities upon abandoning all operating methods and charges as and for railroad transportation and confining itself to the transaction of a terminal business such as supplying and operating facilities for the interchange of traffic between railroads and to assist in the collecting and distributing of traffic for the carrier companies, switching, storage and the like, and modifying its contracts as herein specified.

An election having been made to continue the combination for terminal purposes the defendants are therefore perpetually enjoined from in any wise managing or conducting the said Terminal Railroad Association or any of its constituent companies and from operating any of the properties belonging to it or its constituents otherwise than as terminal facilities for the railroad companies using the same, and from making charges otherwise than for and according to the nature of the services so lawfully authorized to be rendered.

2. The Agreement of October 1, 1889, between the Terminal Railroad Association and various other defend-[fol. 853] ants, known in the record as Exhibit "A," shall be reformed in the following manner:

(a) The provision thereof reading as follows shall be eliminated:

"III. In consideration of the foregoing each of the proprietary companies, for itself only and not for others, accepts the right of joint use hereinbefore granted by the

first party and hereby covenants and agrees that it will forever make use of the bridge and terminal properties of the first party, as above described, for all passenger and freight traffic within its control through, to and from St. Louis and destined to cross the Mississippi River at St. Louis, and pay therefor as herein provided."

(b) The provision thereof reading as follows shall be eliminated:

"XVII. Neither party shall sell, assign, transfer or underlet the rights and privileges hereby granted, or any of them, to any other company or companies without the unanimous consent of the Board of Directors of the first party."

In lieu thereof the following may be inserted:

"No proprietary or using company shall sublet its rights and privileges in the use of the terminal facilities to any other company or companies."

(c) The provision thereof reading as follows shall be eliminated:

"XIX. This agreement may be executed in counterparts, [fol. 854] and any railroad company not named as second party hereto, may be admitted to joint use of said terminal system on unanimous consent, but not otherwise, of the directors of the first party, and on payment of such a consideration as they may determine, and on signing this agreement or any counterpart thereof thereby indicating its rights and duties in respect to use of said terminal system to be the same and none other than the said proprietary companies named as second party hereto."

In lieu thereof the following shall be inserted:

(1) In case any other railroad company, not named as second party hereto, shall hereafter desire to become a member of the Terminal Railroad Association of St. Louis, it may become a member thereof, with equal rights of joint ownership and control of the combined terminal properties of said association, upon such just and reasonable terms as shall place such applying company upon a plane of equality in respect of benefits and burdens of the parties hereto of the second part.

(2) Any other railroad company not electing to become a joint owner as above provided, but desiring the use of the terminal facilities of the Terminal Railroad Association of St. Louis may enjoy the use thereof upon such just and reasonable terms and regulations, as will in respect of use, character and cost of service, place it upon as nearly an equal plane as may be, with respect to expenses and charges, as that occupied by the proprietary companies.

(3) Any dispute or controversy which shall hereafter [fol. 855] arise between any railroad company applying for joint ownership or use of the said terminal properties and the owning, proprietary companies shall be submitted to the United States District Court for the Eastern Division of the Eastern District of Missouri by filing a petition in this cause setting out specifically the facts upon which the said parties have disagreed and the party so filing said petition shall at least fifteen (15) days before so doing so serve the other party to the controversy with a copy of the petition proposed to be filed, together with a notice that said petition will be filed on a certain designated day. Thereupon the matter shall be placed upon the docket of the United States District Court for the Eastern Division of the Eastern District of Missouri, and shall be heard when called in its regular order on said docket and the proceedings shall be subject to review by appeal as in any other cases. Upon being advised by the filing of a petition of such dispute or controversy the Court may at once admit the applying company to ownership or use of the terminal facilities during the pendency of the proceeding upon the giving of security in amount and form as it may direct.

(d) All provisions of the purport or effect of those eliminated from the Agreement of October 1, 1889, shall also be removed from all other contracts affecting the ownership or use of the terminal facilities to which the Terminal Railroad Association and the proprietary companies or any of them are parties. The benefits and burdens of the amended agreement shall inure to and rest upon all future proprietary and using railroad companies, respectively.

[fol. 856] 3. Hereafter traffic destined to St. Louis, Missouri, or to points west of the Mississippi River and to be

transported through the St. Louis gateway or traffic from St. Louis, Missouri, destined to points east of said river, shall not be billed to East St. Louis, Illinois, or other junction points or termini of the railroads of any of the said railroad companies east of the river and then rebilled to destination, but for all such traffic each railroad company shall issue through bills of lading unless otherwise directed by the person controlling the same. The defendants are perpetually enjoined from violating the above provisions.

4. The defendants are perpetually enjoined from making any special or so-called arbitrary charge for the use of the terminal facilities in respect of traffic originating within the so-called one hundred mile area, that is not equally and in like manner applied in respect of all other traffic of a like character originating outside of that area.

5. The provisions of this decree shall extend to and embrace all railroad companies now or hereafter admitted to joint ownership or use of the facilities of the Terminal Railroad Association and to all its facilities present and future acquired.

6. Nothing in this decree shall be taken to affect in anywise or at any time the power of the Interstate Commerce Commission over the rates to be charged by the Terminal Railroad Association, or the mode of billing traffic passing over its lines, or the establishing of joint through rates or routes over its lines, or any other power conferred by law upon such commission.

[fol. 857] 7. That cause is reserved for such further orders and decrees as may be deemed necessary.

Walter H. Sanborn, William C. Hook, Walter I. Smith, Circuit Judges.

St. Louis, January 29, 1914.

Filed March 2, 1914. W. W. Nall, Clerk.

[fol. 858] IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DIVISION OF THE EASTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA, Complainant,

v.

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS et al., Defendants

Order and Decree

Upon consideration of the motions of the Terminal Railroad Association of St. Louis et al., defendants, filed May 7, 1915, of the Evens & Howard Fire Brick Company et al., interveners, filed October 18, 1915, and of the Missouri Pacific Railway Company et al., defendants, filed February 11, 1916, it is

Ordered and Decreed That the mandate of the Supreme Court of the United States of April 23, 1915, in this cause be spread upon the records of this court, and that conformably thereto paragraph 1 of the final decree of this court of January 29, 1914, be and it is modified so as to read as follows:

1. The Terminal Railroad Association of St. Louis is an unlawful combination contrary to the Anti-Trust Act of July 2, 1890 (26 Stat. 209), when it and the various bridge [fol. 859] and terminal companies composing it are operated as railroad transportation companies. The combination may, however, exist and continue as a lawful unification of terminal facilities upon abandoning all operating methods and charges as and for railroad transportation and confining itself to the transaction of a terminal business such as supplying and operating facilities for the interchange of traffic between railroads and to assist in the collecting and distributing of traffic for the carrier companies, switching, storing and the like, and modifying its contracts as herein specified. An election having been made to continue the combination for terminal purposes, the defendants are therefore perpetually enjoined from in anywise managing or conducting the said Terminal Railroad Asso-

ciation or any of its constituent companies and from operating any of the properties belonging to it or its constituents otherwise than as terminal facilities for the railroad companies using the same, and from making charges otherwise than for and according to the nature of the services so lawfully authorized to be rendered. Provided, however, that the right of said Terminal Railroad Association as an accessory to its strictly terminal business to carry on transportation as to business exclusively originating on its lines, exclusively moving thereon, and exclusively intended for delivery on the same is hereby recognized and nothing in this decree shall be construed to deny such rights.

It is further ordered that the motion of the Terminal Railroad Association of St. Louis et al. to modify the final [fol. 860-1082] decree of January 29, 1914, in other respects be and it is denied.

Dated St. Louis, Missouri, January 29, 1917.

(Signed) Walter H. Sanborn, William C. Hook, Walter I. Smith, Circuit Judges.

Endorsed: "Received, filed and entered, Feb. 7, 1917. W. W. Nall, Clerk."

UNITED STATES OF AMERICA,
Eastern Division of the Eastern
Judicial District of Missouri:

I, W. W. Nall, Clerk of the District Court of the United States, in and for the Eastern Division of the Eastern Judicial District of Missouri, do hereby certify that the writing hereto attached is a true copy of Final Decree on Mandate, received, filed and entered February 7th, 1917.

In Case No. 5250 of United States of America, plaintiff, v. Terminal Railroad Association of St. Louis et al., defendants, as fully as the same remains on file and of record in said case in my office.

In Witness Whereof, I hereunto subscribe my name and affix the seal of said Court, at office in the City of St. Louis, in the Eastern Division of said District, this eighth day of February, in the year of our Lord nineteen hundred and seventeen.

W. W. Nall, Clerk of said Court, by Otto O. Fickheisen, Deputy. (Seal.)

[fol. 1083] EXHIBIT No. 57

Extracts from Pages 169, 171, 175 and 176 of the Report of the Engineers' Committee

Handling of Local L. C. L. Freight in the St. Louis-E. St. Louis District

Practically all freight for East St. Louis proper is handled through individual freight stations direct to or from the consignee or consignor. As the great bulk of such freight is handled by the east side lines and is therefore readily accessible to shippers, this situation is very satisfactory.

The freight of St. Louis proper to and from east side lines may be handled by various methods which together with others that have been considered are outlined as follows:

(1) Through the individual freight stations in East St. Louis or St. Louis as the case may be.

(2) Through universal on-track freight stations.

(3) Through individual on-track freight stations of each railroad to be provided on each side of the river at various locations, and immediately adjacent to the central business district.

(4) Through the present freight stations and individual on-track freight stations located in St. Louis as close to the business district as practicable, and so close together as to form practically a joint universal station, receiving and delivering freight at certain designated doors for each railroad.

(5) Through universal off-track freight stations of the various transfer companies.

* * * * * * *

(5) Through universal off-track freight stations of the various transfer companies.

Of St. Louis inbound freight received at St. Louis freight houses 94.4 per cent was handled by drays (5.9 per cent of this was handled by the Columbia Terminals Co.); 5.6 per cent was handled by trap cars.

Of St. Louis outbound freight shipped from St. Louis feight houses 88.1 per cent was handled by drays (13.9 per cent of this was handled by Columbia Terminals Co.); 11.9 per cent handled by trap cars.

Of St. Louis inbound freight received at East St. Louis freight houses, 40 per cent was handled by transfer companies' drays through off-track stations; 38.1 per cent was handled by other trucks and drays direct to shipper; 16.1 per cent was handled by Terminal Railroad Association in trap cars through its Tenth street freight house; 4.3 per cent was handled in trap cars at Cupples Station; 1.5 per cent was handled in trap cars direct to consignees.

Of St. Louis outbound freight shipped from East St. Louis freight houses, 50 per cent was handled by the shippers of off-track stations and transfer companies' drays across the Mississippi River; 38.5 per cent was handled by [fol. 1084] other trucks and drays direct from shippers principally public drayage companies; 3.5 per cent was handled by Terminal Railroad Association in trap cars from its Tenth street freight house; 5.4 per cent was handled in trap cars from Cupples Station tenants; 1.0 per cent was handled in trap cars from Cupples Station public platform; 1.8 per cent was handled in trap cars direct from shippers.

The most prominent feature of the above figures is the very small percentage of freight handled in trap cars although there are three opportunities for doing so at the same rates as when drayed, as follows:

Between shippers having sidings and individual freight houses.

Between Terminal Railroad Association at Tenth street and individual freight houses;

Between Cupples Station and individual freight houses.

Notwithstanding these opportunities the shippers seem to have expressed their preference in no uncertain way in choosing to ship such a great proportion of freight by dray to and from the railroad freight houses direct or through the off-track station of the transfer companies in connection with the east side lines.

In 1906, when the east side railroads extended their bills of lading to St. Louis, it was realized that some means

would have to be provided in St. Louis for the receipt and delivery of their St. Louis l. c. l. freight. At that time the only freight station available for that business was the Terminal Railroad Association Tenth street freight station, which was entirely inadequate.

Serious consideration was given to the construction of one or more large central freight stations for this purpose, but no action was taken. In the meantime, the east side railroads arranged with the transfer companies to dray the freight across the river, absorbed their charges and recognized their off-track stations as the St. Louis freight stations of the east side lines. These have become so popular that the Tenth street freight house of the Terminal Railroad Association, which was formerly overburdened, is not now used to anywhere near its capacity.

There are about twenty public transfer companies whose charges between the east side freight houses and the west approach to Eads Bridge are absorbed by the railroads, but only three operate off-track freight stations and are recognized by the railroads in the application of rates to and from such stations.

In the off-track stations of the transfer companies, freight is received from shippers and consolidated for delivery by dray loads to individual railroads. Inbound freight is handled on return trips of the transfer companies to stations, and delivered to trucks or wagons of consignees.

As the transfer companies drays average six tons per load, this practice reduces congestion at the freight houses by reducing the number of units handling freight. This is one outstanding advantage of universal stations.

[fol. 1085] COMPLAINANT'S EXHIBIT No. 58

Terminal Railroad Association of Saint Louis

Evidence Submitted in the Coal Rate Case Hearing Before the Interstate Commerce Commission at Saint Louis December 15, 16, 17, 18, 1913

[fol. 1086] Terminal Railroad Association of St. Louis, Office of the President, St. Louis

W. S. McChesney, Jr.

January 28, 1914.

In order that the public may appreciate the intents and purposes which led to the organization of the Terminal Railroad Association of St. Louis, and its allied lines, and in order that the nature and extent of the services performed by it may be understood, as well as the logic and relative reasonableness of the charges therefor, I have ventured to edit and print for distribution the testimony and evidence submitted on behalf of this Association at the recent coal rate hearing before Commissioner Harlan and Examiner Eddy, held in this city on December 15, 16, 17 and 18, 1913.

(Signed) W. S. McChesney, Jr., President.

[fol. 1087] Testimony Given by W. C. STITH, Traffic Manager, Terminal Railroad Association, in Answer to Questions by Thomas M. Pierce, General Counsel

Page 13:

Q. State, if you know, the objects and purposes of this agreement of 1889.

A. The object and purpose of this agreement were to provide terminal facilities in the cities of St. Louis and East St. Louis, and for the switching of cars and trains between the cities, such use and service to be open not only to the six railway companies parties to the agreement but also, and upon like terms and conditions, to any and all other railroad companies desiring such use and service; * * *

Q. Has any profit ever been made out of the operation of the Terminal properties, or any dividend been declared on any of its outstanding stock?

A. No, sir. No dividends have been declared or paid on this stock and it is not intended that the stock of this association shall ever earn dividends.

Page 21:

Q. For what purpose were the Terminal Association and the Merchants Company incorporated?

A. The Terminal Association and the Merchants Company are each incorporated, as hereinbefore fully stated, under the laws of the State of Missouri, for the specific purpose of providing terminal facilities for railroad companies.

* * * * * * *

Page 23:

Q. What are the present combined obligations and the annual fixed charges created or assumed by the Terminal Railroad Association?

A. The annual fixed charges created or assumed by the Terminal Railroad Association, guaranteed by the proprietary lines, are as follows: * * *

[fol. 1088] Page 30:

A. The fifteen railroads which constitute the Terminal Railroad Association are guarantors of the bonds and other obligations of the Association and are its sponsors. Any other common carrier may have immediate and full use of all the service, switching facilities, team tracks and other accom-odations of the Association, including the St. Louis Union Station and the Washington Avenue Passenger Station on Eads Bridge, upon exactly the same terms and conditions as any one of these fifteen lines. This has been the "open-door policy" of the Association for some years.

* * * * * * *

[fol. 1089] EXHIBIT No. 59

Maxwell

Report of Committee appointed at Meeting of Presidents Oct. 30, 1915, to prepare a statement of facts covering Mississippi River Bridge Toll between Eastside and Westside Lines on through traffic

Committee: T. C. Powell, V. P., Southern Ry., Chairman; C. Haile, Chief Traffic Officer, M. K. & T. Ry.; W. C. Maxwell, V. P., Wabash R. R.; S. H. Johnson, F. T. M., Rock Island Lines; C. J. Brister, T. M., Big Four Route; F. C. Reilly, A. F. T. M., Frisco Lines

January 10, 1916.

[fol. 1090] Report of Committee appointed at Meeting of Presidents Oct. 30, 1915, to prepare a statement of facts covering Mississippi River Bridge Toll between Eastside and Westside Lines on through traffic

Committee: T. C. Powell, V. P., Southern Ry., Chairman; C. Haile, Chief Traffic Officer, M. K. & T. Ry.; W. C. Maxwell, V. P., Wabash R. R.; S. H. Johnson, F. T. M., Rock Island Lines; C. J. Brister, T. M., Big Four Route; F. C. Reilly, A. F. T. M., Frisco Lines

January 10, 1916.

[fol. 1091] To Mr. A. H. Smith, Chairman of Committee of Eastside and Westside Lines.

Disposition of Bridge Toll Between Eastside and Westside Lines on Through Traffic

DEAR SIR: The Committee appointed at the meeting of Presidents, October 30, was charged with the duty of preparing a statement of fact with relation to the Mississippi River bridge toll on through traffic, and held its first meeting at 3:30 P. M., November 8, 1915, in St. Louis Eastbound Freight Committee rooms, Century Building, St. Louis, Mo.

The Committee agreed that their report should cover the following scope:

"1. To develop facts on through traffic crossing the Mississippi River at East St. Louis and at other crossings, Cairo and Thebes to East Dubuque, inclusive.

"2. To begin the record with the year 1877, for the reason that with some exceptions practically all of the rates between points east of the Mississippi River and points west of the Mississippi River were based on the rates to and from East St. Louis and other east bank points. (The Committee's report to include at this point the important exceptions to said basis.)

"3. It was agreed that the completion of the C. & A. bridge resulted in the first important change in the above [fol. 1092] basis; that is to say, the C. & A. bridge at Louisiana, Mo., was completed in 1877 and prior to that date the rates from East St. Louis to points west of the Mississippi River and from points west of the Mississippi River to East St. Louis were made on St. Louis combination.

"4. In 1877, when the C. & A. bridge at Louisiana, Mo., was opened for traffic, thereby giving the Alton a through route between St. Louis and Kansas City via East St. Louis and the bridge at Louisiana, Mo., the rates to and from East St. Louis were made the same as to and from St. Louis, with certain exceptions in nearby territory, some of which exist today.

"5. It was agreed that the next step in the statement of facts would be the records of rate basis authorized in circulars issued and effective in 1888, these circulars to be used as foundation for further data; namely, the Eastbound Traffic Circular 897, issued March 23, 1888.

On westbound traffic, No. 946, issued as record of meeting October 18 and 19, 1888.

"6. It was agreed that the next step in the statement of facts will be based on the Joint Rate Committee Agreement of 1892.

"7. The Committee decided that in order to expedite the preparation of data, the westside members, namely, the M., K. & T., Rock Island and Frisco, would prepare a memorandum setting out their record of the facts under the above general outline, together with any other facts illustrating the situation.

The eastside members to take the same action and this [fol. 1093] data from both the westside and eastside members to be sent to the Chairman and be, by him, combined into one memorandum for further consideration by the whole Committee.

"8. The Chairman to ask Mr. Eugene Morris for copies of his records to avoid duplication, said records to be sent to both the eastside and westside members and be embodied into the memorandum to be prepared by the Chairman.

"9. It was agreed that if in the investigation it developed that any rates on specific traffic, either as to commodity, territory, or as to point of origin or destination, now provide definitely for the bridge toll in either direction and the disposition thereof, said rates shall be noted by the Committee as not being involved in this present controversy.

"10. It was understood that the members of the Committee need not confine themselves to the records in their own offices, but were to feel at liberty to consult the records of other railroads or the records of any other Association, Agents or Chairmen."

The Committee has secured through its Chairman from Secretary Bloomingdale of the Trunk Line Association and from Chairman Morris of the Central Freight Association, detailed references to the various proceedings, which are set forth below:

The general question may be divided as follows:

(1) Method of constructing and dividing through rates eastbound to Trunk Line Association territory from points [fol. 1094] west of Mississippi River.

(2) Construction and division of through rates applying westbound to points west of Mississippi River from Trunk Line territory.

(3) Construction and division of through rates to Central Freight Association territory from points west of Mississippi River.

(4) Construction and diversion of through rates to points west of Mississippi River from Points in Central Freight Association territory.

(5) Various commodity rates illustrating the situation.

(6) Statement of present status, including territory south of Ohio River.

The records illustrating these several divisions of the subject are referred to below:

[fol. 1095] Eastbound

Disposition of Bridge Toll Between Eastside and Westside Lines on Through Traffic

1877 (and back to April 13, 1876):

In establishing rates from Mississippi River points to western termini of eastern trunk lines and east thereof the following percentages based on Chicago-New York rates were used:

Cairo	120
East St. Louis	116
Hannibal	123
Quincy	125
Keokuk	122
Burlington	120
Davenport	120
Rock Island	190

(Chairman Morris' letter Dec. 27, 1915.)

1877:

"Prior to the completion in 1877 of the Chicago & Alton's bridge at Louisiana, Mo., rates between points east and west of St. Louis-East St. Louis were made on the full combination of locals with the Mississippi River transfer charge added, the rates of the westside lines applying to or from St. Louis and of the eastside lines from or to East St. Louis. With the completion of the Chicago & Alton bridge, that line published the St. Louis basis of rates be-
[fol. 1096] tween East St. Louis and stations on its line west of the Mississippi River, forcing the westside lines to take similar action and absorb the river transfer, as the through rates were necessarily based on East St. Louis,

there being no rates published between St. Louis, Mo., and points east of the Mississippi River."

(Letter from Messrs. Haile, Johnson and Reilly, Nov. 26, 1915.)

1878 and 9:

The earliest available records as to the establishment of an authorized basis for rates to and from Mississippi River is that made by what was known as the Joint Executive Committee, which was organized Dec. 18 and 19, 1878. This Committee consisted of representatives of the Eastern Trunk Lines and Western Roads. (Copy of Organization of the Joint Executive Committee attached as Exhibit A.)

1879—May 1 and 2:

Consideration was given to the establishment of through rates on Missouri River business via St. Louis. This, for the reason the combination of rates to and from Chicago on Missouri River business made a less through basis than applicable via St. Louis, and at this meeting a resolution was adopted that the Westbound rates from St. Louis be fixed upon basis of 116% of the rate to Chicago. This reso- [fol. 1097] lution was further considered at meeting May 2, 1879, at which time it was recommended the westbound basis to East St. Louis be fixed at 116% of the Chicago rate.

1879—June 23:

Based on resolution of May 2, 1879, a special committee was appointed to work out a revised table of percentages for computing rates from all C. F. A. territory, including Mississippi River to New York, and at meeting June 23, 1879, a percentage table for eastbound rates was adopted from all C. F. A. territory, which fixed the basis from St. Louis at 116% of the Chicago-New York rate, with no basis shown from East St. Louis. Other west bank Mississippi River points were fixed on the following basis:

Burlington, Iowa	120%
Davenport, Iowa	120%
Hannibal, Mo.	123%
Keokuk, Iowa	123%

The only east bank Mississippi River points covered were: Quincy, Ill., at 125%; Rock Island, Ill., at 120%.

The basis from Cairo, Ill., was fixed at 120% and from Kansas City, Mo., at 146%. There is no record of any understanding at this time as to the manner in which the Kansas City basis would divide via the Mississippi River. (See Exhibit B.)

[fol. 1098] 1880 (Effective March 1):

The Joint Executive Committee adopted the following:

"The South-Western Railroad Association making their rates from Missouri River points to all Mississippi River points the same, this Committee recommends that the rates from all Mississippi River points to the seaboard be made the same as from East St. Louis on business coming from Missouri River points, and that all percentages from points west of the Mississippi River be withdrawn, and that no rates be made from interior Illinois points to the seaboard on business coming from Missouri River points." (Secretary Bloomingdale's memorandum of Nov. 29, 1915.) (Meeting of Feb. 27, 1880—Chicago.)

The Joint Executive Committee also adopted the recommendation that rates from Hannibal, West Quincy, Burlington, Keokuk, Louisiana, Davenport, be made the same as from St. Louis.

(Secretary Bloomingdale's memorandum Nov. 29, 1915.)

[fol. 1099] The Joint Executive Committee also adopted the recommendation that rates from East Hannibal, Quincy, East Burlington, East Keokuk, Rock Island, East Louisiana, be made 116% of the Chicago rate.

(Secretary Bloomingdale's memo. Nov. 29, 1915.)

1880 (March 9):

As some misunderstanding arose as to the correct basis for eastbound rates from Mississippi River points as adopted effective March 1, 1880, Chairman Fink issued ruling that the basis established at Chicago fixed the rates from points named on the west side of the river at St. Louis rates and from points named on the east side of the river

at East St. Louis rates, and that the lines from the east side of the river to the seaboard could not allow bridge tolls to reduce the rate from the east side of the river below 116% of the Chicago rate.

(Joint Executive Circular 151.)

1880 (March 16):

The Trunk Line Sub-Executive Committee adopted the following:

"Resolved, That the basis for adjusting rates from the points on the east bank of the Mississippi River (i. e., from [fol. 1100] East St. Louis, East Hannibal, East Keokuk, Rock Island and East Louisiana), shall be not less than 116% of the rate from Chicago to New York, and that the rates from the west bank of the Mississippi River (i. e., from St. Louis, Hannibal, West Quincy, Burlington, Keokuk, Louisiana and Davenport) shall be made by adding the cost of transfer, or bridge toll, to the rate from the east bank." (Secretary Bloomingdale's memorandum of Nov. 29, 1915.)

1880 (April 14):

The percentages applying from west Mississippi River bank points were eliminated and the following substituted applicable only from the east bank points (and through rates on this basis filed):

Cairo	120
East St. Louis	116
East Louisiana	116
East Hannibal	116
Quincy	116
East Keokuk	116
East Burlington	116
Rock Island	116

(Chairman Morris' memo. Dec. 27, 1915.)

1880 (April 28):

Chairman Fink issued the following circular:

"It having been reported some of the roads east of the Mississippi River have been violating the spirit and inten-

[fol. 1101] tion of the resolution passed at the Chicago meeting, Feb. 27, 1880, notice is hereby given this resolution must be strictly adhered to, namely:

"The full proportion of 116% of the Chicago to New York rate must be charged by all of the lines east of the Mississippi River on business originating at East St. Louis, East Hannibal, East Keokuk, East Burlington, East Louisiana, Quincy and Rock Island or coming from points west of the same, from which arbitrary rates are charged to the east or to the west side of the Mississippi River." (Joint Executive Committee Circular and Secretary Bloomingdale's memo. Nov. 29, 1915.)

1882 (July 27):

The Joint Executive Committee adopted the St. Louis Committee report providing (in part):

(a) That the East St. Louis rates be charged from the following junction points to the seaboard on all business originating at Missouri River points, or on all business coming from points west of the Missouri River (California excepted), namely, from Alton Junction, Springfield, Chapin, Ashland, Beardstown.

(b) That on all business originating at local points on the C., B. & Q., or Wabash Railways, east of the Missouri [fol. 1102] River, rates be made to the seaboard from the east side of the Mississippi River the same as from East St. Louis.

(c) That East St. Louis rates continue in force from Alton and Alton Junction, East Louisiana, East Hannibal, Quincy, East Keokuk and East Burlington, as before provided by the Joint Executive Committee.

(Secretary Bloomingdale's memo. Nov. 29, 1915.)

1887 (Effective April 1):

At a meeting of the Joint Executive Committee March 3, 1887, a revised table of percentages was agreed upon to take effect on traffic between C. F. A. and Trunk Line territory, including Mississippi River, effective April 1, 1887. This revised table fixed the basis from East St. Louis at 116% of the Chicago to New York rate, with the following

percentages to and from the other east bank Mississippi River points, no percentages being made to apply to or from St. Louis or other west bank Mississippi River points:

East Burlington	120%
East Hannibal	123%
East Keokuk	122%
East Louisiana	125%
Keithsburg	120%
Rock Island	118%

[fol. 1103] This revised table of percentages had the effect of eliminating the application of East St. Louis rates to and from upper east bank Mississippi River crossings.

1888 (Feb. 29):

As the western lines failed to carry out their agreements as to division of through rates on Missouri and Mississippi River business, the Trunk Line Executive Committee directed Commissioner Fink and Chairman Blanchard to confer with the proper committees to — and put in force a set of arbitrary specifics to take the place of the former divisions and per cents on this traffic. (Trunk Line Circular 667.)

1888 (Effective March 19):

Said arbitrary specifics were issued on basis of 87c first-class from East Mississippi River crossings to New York. (Joint Committee Circular 893, March 8, 1888.)

1888 (Effective April 2):

More exact instructions were issued (superseding Joint Committee Circular 893 above) providing that from the 116% points, namely, East St. Louis, Wann, Beardstown and Alton, on traffic coming from points west thereof, the lines would assess to New York (with other seaboard cities [fol. 1104] on the usual authorized differential basis) the following figures:

From						
East St. Louis, Wann	1	2	3	4	5	6
Beardstown, Alton	87	75½	58	40½	35	29

and also providing that on "Traffic coming to the westerly limits of the 116% territory from points beyond that territory will be billed from the 116% line at 116% of the full Chicago tariff rates." (Joint Committee Circular 897, issued March 23, 1888, and reproduced in full as Exhibit "C" to this report.)

1888 (Oct. 18 and 19):

Conference in relation to the establishment of through rates on eastbound traffic held at 346 Broadway, New York.

Present: J. W. Midgley, J. N. Faithorn, Chairman Western Freight Assn.; J. T. R. McKay, G. F. A., L. S. & M. S.; C. S. Wight, G. F. A., B. & O.; J. S. Hammond, G. F. A., N. Y., L. E. & W.; F. H. Kingsburg, T. F. A., Pennsylvania R. R.; Paul P. Rainer, C. C. Cent. Traffic Ass'n; C. W. Butler, Secretary; Albert Fink, Chairman.

[fol. 1105] Agreement was reached that on business originating west of the Mississippi River:

(a) Through rates to be established by applying between east Mississippi River points, East Dubuque and south thereof, to and including East St. Louis and the western termini of the eastern Trunk Lines and east thereof, rates based upon 116% of the New York-Chicago rate, as proportion of through rates.

(b) An Official List to be published showing the rates between points west of the Mississippi River and the east Mississippi River points described, together with the route, or routes, west of the Mississippi River.

(c) No traffic to be taken at less than the sum of the rates, using east of the Mississippi River rates made 116% of the New York-Chicago rate, and using west of the river the rates shown in the above referred to Official List applying from the western points to the east bank of the Mississippi River.

(d) To insure the adjustment of details and observance of the terms of the agreement a committee be appointed consisting of Chairmen of the Trunk Line, Central Traffic

and Western Freight Associations, majority of said Committee to prevail.

(Joint Committee Circular 946, reproduced in full as Exhibit "D" to this report.)

[fol. 1106] This agreement was approved as follows: 1888, Nov. 30, by Central Traffic Ass'n; 1888, Dec. 12, by Western Freight Ass'n; 1888, Dec. 13, by Trunk Line Ass'n, and became effective Jan. 1, 1889.

1889 (Effective Jan 1):

Formal agreement as per above promulgated. (See Exhibit "E" attached. Authority Chairman Morris' letter Dec. 27, 1915.)

"This through traffic was to be handled by the roads west of the Mississippi River on basis of rates to or from the east bank crossings of the Mississippi River; in other words, western roads were in all cases to assume the expense of handling the traffic across the Mississippi River." (Chairman Morris' letter and memo. Dec. 27, 1915.)

1889 (Effective March 1):

Percentages from east bank points were fixed as below, with a further provision that the rates from west bank points were to be made the Mississippi River bridge tolls higher than the east bank points:

Cairo	120
East St. Louis	116
East Louisiana	125
East Hannibal	123
[fol. 1107] Quincy	124
East Keokuk	122
East Burlington	122
Keithsburg	122
Rock Island	122
East Clinton	122
Savanna	122
East Dubuque	122

Chairman Morris' letter and memo. Dec. 27, 1915.)

1889 (October 16):

The following resolution of the Joint Rate Committee was approved by the Trunk Line Committee:

"Resolved, That the Mississippi River rate basis is to apply on all traffic originating at or destined to points west of the Mississippi River in Iowa and Missouri, on and south of the northern boundary line of the State of Iowa, including Sioux Falls, S. D., when forwarded via any of the Mississippi River points, East St. Louis to East Dubuque, inclusive.

"Also, traffic destined to or coming from points west of the Missouri River forwarded via Missouri River points, Sioux City, and south thereof.

"The foregoing, however, not to include Pacific Coast traffic, or traffic to and from points taking Pacific Coast [fol. 1108] rates." (Trunk Line Com. Cir. 822, Oct. 16, 1889).

1892 (April 4):

The 116% basis to apply east of the Mississippi River on all Mexican traffic, both eastbound and westbound, was adopted. (Joint Com. Cir. 1404, April 4, 1892.)

1892:

In 1892, what is known as the "Joint Rate Committee Agreement" was amended by the Joint Rate Committee, consisting of the Chairmen of the Western Trunk Line Committee, Central Freight Association and Trunk Line Association, of which the Chief Inspector was, and is now, Secretary.

This amended agreement provided that through rates would be established applying between points upon the east bank of the Mississippi River, East Dubuque to and including East St. Louis and the western termini of Trunk Lines to points east thereof, rates based on 116% of the New York City to Chicago rates, same to be used as proportions of through rates.

The 116% group referred to covers what is now known as the 117% group. (Letter from R. A. Campbell, G. F. A. Southern Ry., Feb. 27, 1915.)

This agreement was approved as follows: 1892, Sept. 14, by Central Traffic Ass'n; 1892, Sept. 19, by Western Freight Ass'n; 1892, Nov. 1, by Trunk Line Ass'n.

[fol. 1109] (Letter from R. A. Campbell, G. F. A., Southern Ry., Feb. 27, 1915.)

1905 (Jan. 31):

Trunk Line Committee approved proposition reaching them through Secretary Rainer, i. e.:

"That grain in carloads originating at points west of the Mississippi River should be eliminated from the application of trans-Mississippi rates and divisions, and that equalized rates via the various western junctions be established in lieu thereof." (Circular 1728.)

1905 and 1906:

"Putting St. Louis on the Map"

"In the course of time St. Louis shippers began to agitate the question of through rates between St. Louis and the East, with the result that after considerable negotiations between a Commission appointed by the city and the representatives of the eastside lines, through rates were established, the adjustment which was finally accepted by the St. Louis interests being reached by advancing the rates to and from East St. Louis and making them applicable to and from St. Louis." (Letter from Messrs. Haile, Johnson and Reilly, Nov. 26, 1915.)

"Based upon an understanding between the commercial bodies at St. Louis and the carriers' representatives, the [fol. 1110] rates from St. Louis and East St. Louis, also from Mississippi River east and west bank points north of St. Louis to Quincy, inclusive, were established on basis of 117% of Chicago to New York rates." (Letter and memo. from Chairman Morris, dated Dec. 27, 1915.)

"Prior to 1907, rates to and from St. Louis, Mo., proper had been made on basis of the East St. Louis rate, 116% plus bridge toll. In that year, in view of the agitation by commercial interests of St. Louis, the St. Louis Eastbound Freight Committee submitted to the Central Freight Association a recommendation that in lieu of the existing rates the 117% New York-Chicago basis be established on

traffic to and from St. Louis, East St. Louis and related territorry. This matter received attention at a conference between Central Freight and Eastern lines held in New York, July 1907." (Sect. Bloomingdale's memo. Nov. 29, 1915.)

1906 (Effective Jan. 1):

"Under agreement with the Municipal Commission, rates from St. Louis proper were made the following differentials above the rates from East St. Louis:"

Class	1	2	3	4	5	6
Diff.	2	2	1	1	½	½

Spl. Commodities, 5th Class or Lower. ½c.

[fol. 1111] Points within 100-mile radius of St. Louis, combination of locals.

(R. A. Campbell, G. F. A., Southern Ry., Letter Feb. 27.)

1906 (Jan. 17):

"On call of Mr. Ives, meeting of traffic officers was held in St. Louis to consider the absorption of bridge charges on Trans-Mississippi River traffic, which meeting was called on request of Vice-President Grammer of the Big Four, he having advised that Vice-President Ross of the Clover Leaf contemplated an adjustment by which western lines would absorb the bridge arbitrary on business destined west, and eastern lines on traffic destined East through St. Louis, it being Mr. Ross' opinion that this would cause a greater movement through the St. Louis gateway.

"Mr. Grammer explained the result would be the breaking down of the rates, as per the Joint Rate Committee Arrangement, at all Mississippi River crossings, and stated that if such absorption was made by any of the lines the recent arrangement by which the partial absorption of bridge arbitraries was made at St. Louis, would be abrogated by Eastern Trunk Lines.

"All Western Lines were represented at this meeting, excepting the Missouri Pacific and Cotton Belt, and advised that they had made no request for the adjustment referred

[fol. 1112] to by Mr. Ross, and stated that any grievance of the Western Lines would be taken up with the Eastern Lines."

(Letter Feb. 27, 1915, from R. A. Campbell, G. F. A., Southern Ry.)

1906 (Effective June 15):

The through rates from St. Louis were established on the following arbitraries; viz:

Class	1	2	3	4	5	6
Diff.	1	1	1	1	½	½

in excess of the rates current from East St. Louis and the rates on this basis were also established simultaneously from east and west bank Mississippi River points north of St. Louis and East St. Louis to Quincy, inclusive. It was stated to be necessary to apply the St. Louis basis of rates from points north thereof to Quincy inclusive, because the C., B. & Q. handled traffic from and to St. Louis through Quincy and its line of the west bank of the Mississippi River.

(Chairman Morris' letter and memo. Dec. 27, 1915.)

1907 (Feb. 27):

The Municipal Commission asked Mr. D. O. Ives, Chairman of the Special Committee, to deal with the Municipal Commission on the question of abolishing the arbitrary entirely on traffic to and from territory beyond the 100-mile zone.

[fol. 1113] 1907 (April 19):

Executive officers of Eastern Lines had conference in St. Louis and considered the question of abolishing the arbitrary entirely, excepting within the 100-mile zone, and recommended to Central Freight Association and Eastern Trunk Line Committees that rates be made on basis of 117% of the Chicago rates to and from East St. Louis, Madison, Granite City, Ill., and St. Louis, Mo.

1907 (May 24):

"The Fourth report of the Municipal Bridge and Terminal Commission to the assembly reads in part as follows:

'This adjustment means that so far as freight traffic is concerned, East St. Louis, Madison and Granite City will be merely divisions of St. Louis, just as North St. Louis, South St. Louis and Carondelet are divisions of St. Louis. It means that St. Louis will be the freight rate basing point, not only for business between the East, but between the East and most of the vast territory west of the Mississippi River.' "

(Letter from Messrs. Haile, Johnson and Reilly, Nov. 26, 1915.)

1908 (Effective Jan. 1):

East St. Louis rates were advanced to the basis of 117% of the Chicago-New York rates and thereupon the St. Louis [fol. 1114] rates eastbound were made the same as eastbound from East St. Louis; namely, 117% of the Chicago rate.

1908 (Jan. 1):

The following changes in percentages were also made:

East Louisiana	117%
Louisiana	117%
East Hannibal	117%
Hannibal	117%
Quincy	117%

(Chairman Morris' letter and memo. Dec. 27, 1915.)

To provide against the application of St. Louis rates on western traffic the St. Louis Freight Association issued Information No. 2179 (Series "A") and this was repeated in Trunk Line Committee Circular 1870, of April 15, 1908, in following paragraph:

"Full local rates will be charged east of East St. Louis, Ill., on business originating west thereof, except where the rates from origin points to St. Louis, plus rates therefrom,

make through rates that are less than the combination on East St. Louis."

(St. Louis Freight Com. Information 2179-A; Trunk Line com. Cir. 1870, Apl. 15, 1908.)

[fol. 1115] 1908 (April 14):

Full local rates to be charged east of East St. Louis on business originating west thereof except where the rates from origin point to St. Louis, plus rates therefrom, make through rates that are less than the combination on East St. Louis.

(Amendment 49 to Jt. Rate Com. Cir. 108.)

1908 (March 16):

Mr. D. O. Ives (Chairman of the Committee of Four representing the Eastside Lines in the negotiations with the Municipal Bridge and Terminal Commission of St. Louis) after a meeting between the Committee and Messrs. A. T. Perkins, adviser to the Commission, and J. C. Lincoln, Commissioner of the Traffic Bureau of the Merchants' Exchange on the question of rates on grain and grain products from St. Louis to the Ohio River, Central Freight Association territory and Trunk Line territory, wrote to Mr. D. T. McCabe, Chairman of Executive Committee, St. Louis Eastbound Lines, requesting Mr. McCabe to call a meeting of "all the interested lines" to consider said question.

Record of said meeting and subsequent meetings follows:

1908 (April 1):

"Meeting was held in St. Louis, at the Jefferson Hotel, April 1, 1908, for the consideration of this question, Mr. [fol. 1116] D. T. McCabe, Chairman, at which meeting letters were read from traffic officers of Western lines advising that it was the intention of such Western Lines, in the near future, to make grain rates to St. Louis only, and charge the bridge transfer in addition thereto when the traffic was consigned to East St. Louis or beyond.

After full discussion, the following recommendations were adopted:

"Whereas: The Missouri Pacific-Iron Mountain; Frisco; Rock Island and Wabash Railways will deliver grain at East St. Louis coming from the Wabash and passing through elevators in St. Louis, whether elevators are on their own tracks or those of other roads, absorbing bridge toll, and whereas the Chicago, Burlington & Quincy and Chicago & Alton Railways will deliver grain at East St. Louis passing through elevators on the Chicago, Burlington & Quincy tracks at St. Louis absorbing the bridge toll.

'Recommended: That effective June 1, 1908, the specifics as checked in at meeting held in Chicago March 13, 1908, to apply from East St. Louis, will be the minimum charged east thereof on such traffic.

'Recommended: That the proportional rates applicable from East St. Louis on flour and other grain products originating west of the Mississippi River, be applied as [fol. 1117] minimum proportions east of East St. Louis on flour and other grain products of western grain milled at St. Louis and East St. Louis. On all other St. Louis or East St. Louis shipments the regular local rates will apply. This to become effective June 1st.' "

1908 (May 4):

"A meeting was held in the office of the St. Louis Eastbound Freight Committee May 4, 1908, and committee of four was appointed, consisting of Mr. Ed. Hart, Jr., Mr. Ed. Keene, Mr. Walter Nichols and Mr. Geo. W. Davis, Chairman, to prepare statistics covering the movement of grain and grain products, the capacity of mills and elevators in St. Louis and East St. Louis, and to submit recommendation on the question of interchange of freight traffic between the east side and west side lines."

1908 (June 25):

"Meeting was held in the office of Southwestern Tariff Committee, representation being as follows: B. & O. S.-W. R. R.—S. T. McLaughlin, Edward Hart, Jr.; C., B. & Q. R. R.—G. H. Croseby, Wm. Gray; C. & A. R. R.—W. L. Ross, Ed. Keane; C. C. C. & St. L. Ry.—B. B. Mitchell, [fol. 1118] Walter Nichols; C. & E. I. R. R.—Theo. Brent,

F. C. Reilly; C., R. I. & P. Ry.—Theo. Brent, H. Gower; I. C. R. R.—B. J. Rowe; I. & N. R. R.—C. B. Compton, J. Fitzgerald; M., K. & T. Ry.—C. Haile; Mo. Pac. Ry.—J. M. Johnson; Penna. Lines—Wm. Hodgdon; Sou. Ry.—T. C. Powell, R. A. Campbell; St. L. & S. F. R. R.—J. A. Middleton; St. L. E. B. F. Committee—R. M. Fraser; T., St. L. & W.—W. L. Ross, Ed. Keane; Vandalia R. R.—G. W. Davis; Wabash R. R.—D. O. Ives, W. C. Maxwell, R. N. Collyer.

Special Committee appointed at meeting May 4, made the following report as to rate adjustment:

(Statistics omitted from this report.—Chairman.)

'(1) The readjustment of St. Louis-East St. Louis rates, in response to demands of St. Louis commercial interests and public sentiment did not contemplate any corresponding readjustment of rates on Trans-Mississippi River traffic, nor create any condition which necessitates the assumption of Mississippi River transfer charges, or any part thereof by Eastern Lines, on such traffic, and all efforts on the part of western Roads in that direction should be discouraged and resisted because the application by western roads, of the West Bank Mississippi River Rates from the east bank is the result of geographical and competitive con-[fol. 1119] ditions, and such rates have, for many years been constructed accordingly. The fact that western roads make rates between points on their lines in Illinois and points west of the Mississippi River either the same as St. Louis or on a differential higher, is prima facie evidence that the assumption of Mississippi River Transfer charges by the eastern roads would be entirely supererogatory and make the average earnings of western roads west of the Mississippi River over and above what would be earned on like traffic to and from their own points east of the River.

'(2) It has been claimed by some of the roads which advocate the application of Trans-Mississippi River traffic of East St. Louis rates from St. Louis to Eastern points, that the eastern roads would be benefited to the extent of the greater volume of traffic which western roads would route via East St. Louis on that account, evidently overlooking the fact that whatever adjustment is made at St. Louis and East St. Louis will apply equally via upper Mississippi River crossings, East Louisiana to East Du-

buque, inclusive, thus not changing the relative conditions as between St. Louis, East St. Louis and Upper Mississippi River crossings.

'(3) A departure from the principles annunciated in the first section hereof would also establish a precedent for corresponding changes at Cairo, Gale, Thebes and Memphis and the assumption on the part of the lines leading eastwardly from these points of the Mississippi River bridge [fol. 1120] tolls, which are now borne by the western roads, and corresponding changes at Evansville, Louisville and Cincinnati, where, on traffic originating in or destined to Southeastern territory, the Ohio River bridge toll is assumed by the southern lines on traffic in both directions.

'(4) No exceptions should be made to the east bank Mississippi River basis on Trans-Mississippi River traffic.

'(5) So-called 'proportional rates' being established in lieu of special divisions of through rates or to provide a more satisfactory combination of rates on through traffic, and being not applicable on local traffic to or from the basing point (in this case East St. Louis) were not included in the agreement or understanding reached between the Eastern Roads and the St. Louis Municipal Bridge and Terminal Commission. No obligation for the establishment of East St. Louis proportional rates from St. Louis, therefore, exists, St. Louis merchants, as such, not being interested.

'(6) As to grain and grain products: Western roads accord mills and elevators on their rails at all points, except St. Louis, a transit or milling in transit privilege and deliver such traffic to their connections on the same terms as direct through consignments, they have, however, discriminated against St. Louis in that respect and for many years prior to the readjustment of St. Louis, East St. Louis rates by eastern roads, have kept them at a disadvantage to the extent of the bridge toll plus their own switching charge, [fol. 1121] claiming that their interest in the grain ceased when it entered the mill, and some roads have taken the same position with respect to grain going into St. Louis elevators.

'Under the stress of competition and the action of roads whose primary interests lay west of the Mississippi River,

first the switching charge and then the river transfer has been eliminated and the obligations of the western roads thus assumed by the eastern roads and the Western roads now seek to perpetuate the advantage they have thus acquired, which, as it is an entering wedge to the breaking down of the east bank Mississippi River adjustment of rates on Trans-Mississippi River traffic, your Committee unanimously disapproves, feeling that the principles annunciated in the first, fourth and fifth sections hereof should be carried out on grain and grain products as well as all other commodities, and that while St. Louis milling and elevator interests are undoubtedly entitled to an adjustment which will place them on an exact parity with mills and elevators at East St. Louis, they should look to the western roads, rather than the eastern roads for relief from the disabilities under which they have been laboring.

The following recommendation was offered by Mr. T. C. Powell:

'Recommended: That the mills and elevators in St. Louis and East St. Louis shall be considered as one district, and [fol. 1122] that uniform re-shipping and re-consigning and milling in transit privileges shall be accorded to said traffic in both cities.

'(1) Grain and grain products brought into St. Louis by West Side lines and disposition instructions given for delivery to an elevator, warehouse, industry or team track in East St. Louis for unloading, East St. Louis rates to be applied, bridge transfer to be borne by inbound line.

'(2) Grain and grain products brought into East St. Louis by East Side lines, and disposition instructions given for unloading at an elevator, warehouse, industry or team track in St. Louis, the St. Louis rate to be protected, bridge transfer to be borne by the East Side lines.

'(3) Grain and grain products forwarded from elevators, warehouse, or industry, in East St. Louis to Western, Southwestern or Southern destinations, bridge transfer to be assumed out of the earnings of outbound lines.

'(4) Grain and grain products forwarded from elevators, warehouses or industries in St. Louis, to Southern, South-

western or Eastern destinations, bridge transfer to be borne by outbound lines.

Recommendation negatived.

'The following recommendation offered by Mr. C. Haile:

'Recommended: That the mills and elevators in St. Louis [fol. 1123] and East St. Louis shall be considered as one district, and that uniform re-shipping and re-consigning and milling in transit privileges shall be accorded to said traffic in both cities:

'(1) Grain and grain products brought into St. Louis by West Side lines and disposition instructions given for delivery to an elevator, warehouse, industry or team track in East St. Louis, for unloading, East St. Louis rates to be applied, bridge transfer to be borne by the inbound lines.

'(2) Grain and grain products brought into East St. Louis by East Side lines, and disposition instructions given for unloading at an elevator, warehouse, industry or team track in St. Louis, the St. Louis rates to be applied, bridge transfer to be borne by the East Side lines.

'(3) Grain and grain products forwarded from elevators, warehouses or industries in East St. Louis, to Western, Southwestern or Southern destinations, bridge transfer to be borne by the outbound and inbound lines on basis of 50 per cent.

'(4) Grain and grain products forwarded from elevators, warehouses or industries in St. Louis to Southern, Southeastern or Eastern destinations, bridge transfer to be borne by the outbound and inbound lines on basis of 50 per cent.

'(5) On all other traffic, the river transfer charges shall be borne by East Side and West Side lines on basis of 50 per cent.'

No vote taken.

[fol. 1124] Further recommendation as follows:

'Recommended: That a Sub-Committee of three be appointed by the East Side lines to confer with a similar committee to be appointed by the West Side lines, to recom-

mend a method of settlement of the question of disposition of, or dividing the bridge toll and switching between St. Louis and East St. Louis on through traffic moving in either direction via East St. Louis to and from points both of which are outside of the limits of St. Louis and East St. Louis. Said joint Committee to report to an adjourned meeting of this general Committee as soon as possible.'

The foregoing was unanimously adopted, and in line therewith the Chairman announced the following Committee: Representing West Side Lines: Mo. Pac. Ry., (Chairman); C., B. & Q. R. R.; St. L. & S. F. R. R.; representing East Side Lines: Vandalia R. R.; C. C. C. & St. L. Ry.; B. & O. S.-W. R. R., it being understood the Committee would meet upon call of its Chairman."

1908 (August 6):

"The Committee appointed June 25, 1908, met in New York, the proceedings of meeting, as recorded, being as follows:

'The meeting convened at 11 a. m., representation being [fol. 1125] as follows: Representing West Side Lines: C., B. & Q. R. R., D. Miller, W. B. Hamblin; Mo. Pac. Ry., J. M. Johnson; St. L. & St. F. Ry., T. Brent; representing East Side Lines: B. & O. S.-W. R. R., S. T. McLaughlin, Ed. Hart, Jr.; C. C. C. & St. L. Ry., B. B. Mitchell, G. H. Ingalls; Vandalia R. R., G. W. Davis.

'The Chairman stated that the meeting convened pursuant to recommendation adopted at meeting of the East and West Side St. Louis lines, held in St. Louis, June 25th, 1908, as follows:

'Recommended: That a Sub-Committee of three be appointed by the East Side lines to confer with a similar committee to be appointed by the West Side lines, to recommend a method of [illegible]lement of the question of disposition of, or dividing the bridge toll and switching between St. Louis and East St. Louis on through traffic moving in either direction via East St. Louis to and from points both of which are outside of the limits of St. Louis and East St. Louis. Said joint Committee to report to an adjourned meeting of this General Committee as soon as possible.'

Representatives of Western lines offered the following recommendation as representing their views on the subject referred to them for consideration:

[fol. 1126] 'Recommended: That the mills and elevators in St. Louis and East St. Louis shall be considered as one district, and that uniform re-shipping and re-consigning and milling in transit privileges shall be accorded to said traffic in both cities:

'(1) Grain and grain products brought into St. Louis by West Side lines and disposition instructions given for delivery to an elevator, warehouse, industry, or team track in East St. Louis, for unloading, East St. Louis rates to be applied, bridge transfer to be borne by the inbound line.

'(2) Grain and grain products, brought into East St. Louis by East Side lines, and disposition instructions given for unloading at an elevator, warehouse, industry or team track in St. Louis, the St. Louis rates to be applied, bridge transfer to be borne by the West Side lines.

'(3) Grain and grain products forwarded from elevators, warehouses, or industries in East St. Louis, to Western, Southwestern or Southern destinations, bridge transfer to be borne by the outbound and inbound lines on basis of 50 per cent.

'(4) Grain and grain products forwarded from elevators, warehouses, or industries in St. Louis to Southern, Southeastern or Eastern destinations, bridge transfer to be borne by the outbound lines on basis of 50 per cent.

'(5) On all other through traffic, the river transfer charges shall be borne by East Side and West Side lines basis of 50 per cent.'

After a very general discussion of the foregoing recom- [fol. 1127] mendation it was submitted to a vote, the Western members voting the affirmative and the Eastern members in the negative.

No further recommendations being submitted, meeting adjourned with the understanding that it would not be necessary to call a meeting of the General Committee.

J. M. Johnson, Chairman."

1914 (August):

There was no further agitation of the question of the Eastern lines absorbing the bridge toll on Trans-Mississippi River business until August, 1914, when Western lines gave notice to Eastern lines that they would refuse to assume the bridge toll on eastbound traffic, and on August 17, 1914, representatives of Eastern and Southern lines sent the following notice to Traffic Officials of Western lines:

"It was understood when St. Louis rates to and from C. F. A. Trunk line and New England territories were published in response to demands of St. Louis Commercial interests that Trans-Mississippi River traffic would continue to be handled on the East St. Louis basis.

"Of late, contrary to this understanding and long established practice, shipments from the West have been tendered by Western to Eastern lines without provision for [fol. 1128] the payment by Western lines of the bridge transfer charges.

"This is to notify you, we will not absorb the Mississippi River transfer contrary to the provisions of the Joint Rate Committee agreement between Eastern and Western roads on trans-Mississippi traffic which provides for the east-bank Mississippi River interchange of such traffic. Shipments billed to us with bridge transfer charges to follow will not be accepted. Our agents, East St. Louis, and the Terminal Railroad Ass'n. of St. Louis and other transfer instrumentalities have been instructed to be governed accordingly."

1914:

"Attempts were made from time to time by the West Side lines to induce the Eastern lines to assume a proper share of the St. Louis river transfer on through traffic, but without result, until during the summer of 1914 the C., P. & St. L. stated its willingness to pay the bridge toll on shipments delivered to them. Subsequently, they rescinded this action. In the meantime the Western roads demanded their full tariff rate up to St. Louis on business not covered by through rates, excepting the East Side lines to apply their published tariff rates from St. Louis, paying the river transportation out of such rates.

"The refusal of the Eastern lines to protect their tariff rates caused much confusion and delay and was seriously [fol. 1129] affecting the St. Louis gateway. A joint conference between the Eastern and Western lines was held in St. Louis on Sept. 28, 1914, at which nothing definitely was accomplished. The Western lines resumed under protest, the payment of the River transfer."

(Letter from Messrs. Haile, Johnson and Reilly, Nov. 26, 1915.)

1914 (Sept. 28):

"Meeting was held at St. Louis at which all lines were represented.

Mr. W. S. McChesney, Jr., was chosen as Chairman, and Mr. E. Hart, Jr., as Secretary of the meeting.

The following resolution was offered by Mr. C. Haile, Vice-President of the M., K. & T. Ry., and seconded by Mr. W. B. Biddle, Chief Traffic Officer of the St. L. & S. F. R. R.:

'In order that the cost of interchange between Eastern and Western lines at St. Louis and East St. Louis may be equitably divided, it is agreed by the parties here represented that on and after this date the expense of bridge and ferry tolls, or charges, of other transportation companies, between St. Louis and East St. Louis, shall be paid by the line receiving the traffic.'

"Upon a vote the resolution was defeated, five votes being cast in favor of, and twelve opposed to, its passage.

[fol. 1130] "Upon motion, the meeting adjourned."

(Letter from R. A. Campbell, G. F. A., Southern Ry., Feb. 27, 1915.)

1914 (Sept. 28):

"The following notice was submitted by Eastern lines under date of Sept. 28, 1914:

'Referring to notice served on you by the undersigned under date August 17, 1914, to the effect that Mississippi River transfer charges on Trans-Mississippi River traffic would not be assumed.

'This matter, having been discussed at meeting of Eastern and Western roads, today, and no good and sufficient reasons advanced for a change in the existing arrangement which has been in effect for at least twenty-five years; in fact, ever since the present facilities for handling traffic through St. Louis and East St. Louis has been in existence and under which the traffic has grown to its present volume and which were in no way changed with the establishment by Eastern roads of St. Louis rates to satisfy the demands of the City of St. Louis for rates published specifically to and from St. Louis and which, moreover, could not be changed without involving other competitive gateways, including all Mississippi River crossings from Cairo to East Dubuque, inclusive, to say nothing of Ohio River and Potomac River crossings; also the fact that rates east and west of the Mississippi River and north and south of the [fol. 1131] Ohio River, respectively, have been built on the basis of an east or north bank interchange of through traffic, we therefore, pursuant to instructions of our superior officer, reaffirm our notice of August 17th, modified to the extent that we will accept and forward all shipments tendered, but we will not advance charges in excess of those computed on your rates to East St. Louis as lawfully on file with the Interstate Commerce Commission, nor will we accept on prepaid traffic, prepaid charges less than those computed on the basis of our rates from East St. Louis to destinations as lawfully on file with the Interstate Commerce Commission.' "

1915:

The Executive Committee of the Central Freight Association, on the recommendation of the St. Louis Eastbound Freight Committee, took action as follows:

"Recommended, That tariffs published by Wm. Cameron, Agent, be amended at the earliest practicable date to qualify the rates from East St. Louis, Ill., published in such tariffs, by the following note:

'Application of Rates on Traffic Originating at Points West of the Mississippi River

'On traffic originating in the States of Arizona, Arkan- [fol. 1132] sas, California, Colorado, Idaho, Iowa, Kan-

sas, Louisiana, Minnesota, Missouri (except St. Louis), Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming and the Republic of Mexico, the East St. Louis rates published herein will be applied.

'Further recommended, That as agency tariffs published by Wm. Cameron are re-issued the rates from St. Louis, Mo., on the one hand, and East St. Louis, Ill., Upper Mississippi River Crossings and points taking East St. Louis rates, on the other hand, be separately stated.

'Further recommended, That individual and other agency tariffs applying from East St. Louis, Ill., be amended as provided for in the first recommendation.'

The C., B. & Q. not having announced favorably, the following recommendation was adopted:

'Recommended, That Agent Cameron's tariff, and also the tariffs of the individual lines, be amended in conformity with the announcement made by the St. Louis eastbound roads, and in the event the same amendment is not issued by the C., B. & Q. or any other eastbound roads, from East St. Louis, that the Central Freight Association connections of those roads accept not less than their agreed percentage [fol. 1133] proportions of the established rate applicable east of East St. Louis without any deduction for transfer across the Mississippi River.'

This action was taken finally under date June 30, 1915, and Agent Cameron's tariffs issued to conform thereto, as per his Tariff 400-B, ICC D-80 to Central Freight Association territory, effective Sept. 1, 1915, Supplement 26; and Tariff 300-B, ICC D-66 to Eastern Trunk Line Territory, effective Sept. 1, 1915, Supplement 94.

The Executive Committee of the Central Freight Association handled the question in regard to westbound tariffs and Chairman Morris issued information circular requiring the same adjustment westbound, but so far I am unable to learn of any tariffs from Central Freight Association territory, westbound, being issued to conform to the recommendation.

(The question was referred by the Central Freight Association Executive Committee to the Eastern Trunk Line

Association, which association acted favorably and instructed that tariffs be amended effective Nov. 15.

The St. Louis, Cincinnati, Louisville Freight Committee took action favorable to the recommendation, as per Agent Cameron's Tariff 201-G, ICC D-64, from Cincinnati and Louisville, effective Nov. 15, Supplement 49, and Tariff [fol. 1134] 207-D, ICC D-61, from Evansville, effective Dec. 1, Supplement 50.

The question of re-issuing tariffs to conform to the recommendation to and from points in Illinois East of the 100-mile zone is having consideration through Chairman Boyd, of the Illinois Freight Committee." (Letter from R. A. Campbell, G. F. A., Southern Ry., Oct. 21, 1915.)

"As the matter now stands, the Western lines are absorbing the transfer on all business, with the exception of the limited traffic originating at or destined to points within the so-called '100-mile zone,' whether covered by through rates or moving on combination of locals." (Letter from Messrs. Haile, Johnson and Reilly, Nov. 26, 1915.)

1915 (Oct. 21):

"The Western lines, at the present time, absorb the bridge toll on all traffic excepting to and from territory where the lowest rates make on St. Louis, and not East St. Louis, but this situation will be cleared up when tariffs have been re-issued by all of the lines to conform to the action taken by the St. Louis Eastbound Freight Committee, approved by the Central Freight Association Executive Committee, in regard to using the East St. Louis combination. This has reference to territory west of St. Louis within approximately one hundred miles' distance." (Let- [fol. 1135] ter from R. A. Campbell, G. F. A., Southern Ry., Oct. 21, 1915.)

NOTE.—This action of the lines east of the Mississippi River is a modification of the previous practice only to the extent that it affects the territory adjacent to St. Louis basing upon St. Louis, the eastside lines having taken the position that their rates will invariably apply to and from East St. Louis and will not in any case include the bridge toll across the Mississippi River or when eastbound shipments originate outside the limits of St. Louis.

[fol. 1136] Westbound Rates

Disposition of Bridge Toll Between Eastside and Westside Lines on Through Traffic

1881 (Effective Sept. 10):

The Southwestern Railway Association having issued rates from Chicago, St. Louis, etc., to equalize through rates from the Atlantic seaboard to Missouri River points, Commissioner Fink issued revised rates and divisions from New York to Missouri River points, dividing these rates, east and west of Chicago; east and west of East St. Louis and east and west of East Hannibal. (Joint Ex. Com. Cir. 293, Sept. 9, 1881.)

1882 (Effective Feb. 8):

Agreement made with the Southwestern Railway Association that certain specified arbitraries will be charged from Chicago, East St. Louis, and other Mississippi River points, to Missouri points, on all business originating at the seaboard, destined to Kansas City, Leavenworth, Atchison, or St. Joseph and beyond (except to California); also to Council Bluffs on business destined to points in Colorado or on the Denver & Rio Grande Railroad.

These arbitraries were on the basis of 71c. first class from Chicago and 65c. first-class from east Mississippi River crossings; namely, East Burlington, Quincy, Alton, East St. Louis, etc.

The agreement stipulated that the rates from the Atlantic seaboard to the east Mississippi River crossings [fol. 1137] named would be the same as to East St. Louis. (Joint Ex. Com. Cir. 312, Feb. 7, 1882.)

1882 (Effective July 1):

Revised basis for through rates to Missouri River points was put into effect. These rates divided east and west of Chicago and east and west of East St. Louis, with the provision that rates and divisions via all east Mississippi River points would be the same as via East St. Louis. (Joint Ex. Com. Cir. 368, June 26, 1882.)

1882 (Effective August 1):

Increased totals were issued to Mississippi River points but the same basis for divisions was continued. (Joint Ex. Com. Cir. 383, July 25, 1882.)

1882 (Nov. 1):

The through rates were further increased but the same basis for dividing the through rates; namely, east and west of east Mississippi River crossings, was maintained. (Joint Ex. Com. Cir. 420, Oct. 25, 1882.)

1882 (Effective July 7):

The rate from seaboard to all East Mississippi River points were made the same on traffic destined to points in Texas as the rates from the seaboard to East St. Louis. [fol. 1138] There was also established from the seaboard to Missouri River points through rates via East St. Louis that would equalize Chicago combination, such through rates divided by allowing specific arbitraries east of East St. Louis, and further provided for the East St. Louis arbitraries to also apply to the other East Mississippi River points.

1882 (Effective July 7):

Westbound rates to East St. Louis were made to apply to East Burlington, Quincy, East Hannibal, East Keokuk, East Louisiana and Alton for business destined to points beyond, but not for business to those points proper. (Trunk Line Ass'n Miscellaneous Cir. 169, June 6, 1882.)

1886 (Feb. 23):

The application of East St. Louis basis (116%) to upper Mississippi River crossings on beyond traffic was again recorded. (Joint Ex. Com. Cir. 754, of Feb. 23, and Trunk Line Cir. 537, Feb. 18, 1886.)

1887 (Effective April 1):

At a meeting of the Joint Executive Committee March 3, 1887, a revised table of percentages was agreed upon to take effect on traffic between C. F. A. and Trunk Line ter-

ritory, including Mississippi River. This revised table fixed the basis from East St. Louis at 116% of the Chicago [fol. 1139] to New York rate, with the following percentages to and from the other east bank Mississippi River Points, no percentages being made to apply to or from St. Louis or other west bank Mississippi River points:

East Burlington	120%
East Hannibal	123%
East Keokuk	122%
East Louisiana	125%
Keithsburg	120%
Rock Island	118%

This revised table of percentages had the effect of eliminating the application of East St. Louis rates to and from upper east bank Mississippi River crossings.

1887 (December):

The Burlington and Wabash reduced their rates west of Chicago, etc., to Missouri River points, and it was decided that the authorized through rates and divisions should continue to be applied and that on any Missouri River traffic not taking said through rates and divisions, the regular tariff to Chicago, East St. Louis and other junctions with western roads would be charged.

This did not change the practice of dividing the rates east and west of the east Mississippi River crossings, but placed upon the western roads the responsibility of definitely [fol. 1140] establishing certain rates from East St. Louis. (Trunk Line Cir. 640, Dec. 15, 1887; Trunk Line Cir. 641, Dec. 21, 1887.)

1888 (Effective March 5):

Owing to the western lines failing to carry out the agreement with respect to divisions, circular was issued establishing rates on basis of 80c. first-class from New York to east Mississippi River crossings, applicable on traffic destined to Missouri River points. (Trunk Line Cir. 667, Feb. 29, 1888, and Joint Com. Cir. 892, March 3, 1888.)

1888 (Effective April 2):

The proportions on westbound traffic east of the east Mississippi River crossing were increased to basis of 82c. first-class from New York. (Joint Com. Cir. 896, March 24, 1888.)

1888 (Nov. 12):

The rates to east Mississippi River crossings on trans-Mississippi River traffic were reduced to basis of 53c. first-class from New York. (Joint Com. Cir. 949, Nov. 12, 1888.)

In all cases the rates applied only to east Mississippi River crossings:

1888 (Dec. 1):

Joint Com. Cir. 975 reaffirmed these figures.

1888 (Effective Dec. 17):

The basis of 82c. New York to east Mississippi River [fol. 1141] crossings was restored. (Joint Com. Cir. 958, Dec. 7.)

1888:

Circulars applying to Pacific Coast traffic provided for the division of rates east and west of the east Mississippi River crossings. (Trunk Line Ass'n Cir. 708, Aug. 28, 1888; Joint Ex. Com. Cir. 948, Nov. 12, 1888.)

1888:

Meetings were held relative to through rates and divisions on trans-Mississippi River traffic, an attempt being made to abrogate the specific proportions applied east of the East Mississippi River crossings.

The question involved was with respect to the differential rates and it was agreed that the through rates and divisions to points west of the Mississippi River via Trunk Lines would be based on the differential rates to 116% points applying East St. Louis rates to upper East Mississippi River crossing on trans-Mississippi River traffic. (Trunk Line Circulars 723, Dec. 13; 724, Dec. 14; 725, Dec. 27, 1888.)

1889:

The following recommendation of the Joint Rate Committee was confirmed by the Trunk Line Committee:

"Resolved, That the Mississippi River rate basis is to [fol. 1142] apply on all traffic originating at or destined to points west of the Mississippi River in Iowa and Missouri, on and south of the northern boundary of the State of Iowa, including Sioux Falls, S. D., when forwarded via any of the Mississippi River points, East St. Louis to East Dubuque, inclusive. Also traffic destined to or coming from points west of the Missouri River forwarded via Missouri River points, Sioux City and south thereof.

"The foregoing, however, not to include Pacific Coast traffic or traffic to and from points taking Pacific Coast rates." (Trunk Line Cir. 822, Oct. 16, 1889.)

1889 (Effective April 1):

It was agreed that the 116% differential basis, namely, 82c first-class from New York to all east Mississippi River points would be applied by all Trunk Lines as proportions of through rates on all business for points west of the Mississippi River, excepting trans-continental traffic and traffic destined to points located on or reached by lines located north of the main line of Illinois Central R. R. between Dubuque and Sioux City. (Joint Com. Cir. 973, March 11, 1889; Joint Com. Cir. 1080, March 18, 1890.)

1889 (Nov. 12):

The understanding that the 116% differential basis, 82c [fol. 1143] first-class, should continue to apply on Arkansas and Texas business via East St. Louis all routes was reaffirmed. (Trunk Line Com. Cir. 832, Nov. 12, 1889.)

1890 (Oct. 18):

The application of the 116% differential basis to east Mississippi River points, East Dubuque to East St. Louis inclusive, as proportions of through rates on traffic destined to specified stations in South Dakota and Minnesota was authorized. (Joint Com. Cir. 1197, Oct. 18, 1890.)

1891 (May 5):

Agreement confirmed between the Trunk Line Freight Committee and the Joint Rate Committee, providing for the application of the 116% differential basis to east Mississippi River points on shipments to Arkansas, Texas and Louisiana points (on basis of 82c. first-class from New York.) (Trunk Line Com. Cir. 928, May 5, 1891.)

1891 (Aug. 26):

The application was authorized of the 116% proportional basis to East Mississippi River points on westbound shipments to the City of Mexico. (Trunk Line Cir. 964, Aug. 26, 1891.)

1892 (March 22):

Reduced rates on articles of iron and steel manufacture were authorized to expire Sept. 30, 1892, and provided that [fol. 1144] on shipments to points west of the Mississippi River located in the territory to which the proportional basis to east Mississippi River points applied as defined in Joint Committee Circular 1080, the proportions from the seaboard to east Mississippi River points would be based on 116% of the full tariff from New York to Chicago. (Joint Ex. Com. Cir. 1400, March 22, 1892.)

1892 (April 4):

The adoption of the 116% basis to apply east of the Mississippi River on all Mexican traffic both eastbound and westbound was recorded. (Joint Com. Cir. 1404, April 4, 1892.)

1899 and 1900:

Owing to disagreement between eastern and western lines the proportional rates were withdrawn on March 1, 1900, and traffic billed at full local rates to and from the junction with the western road to which the freight was delivered.

This status lasted only for a few days and on April 16, 1900, the former arrangements were restored. (Frt. Com. Cirs. A-160 and A-161; Trunk Line Ex. Com. Cir. 1575.)

1900:

The Trunk Line Committee agreed to incorporate in the westbound percentage table a list of the east Mississippi [fol. 1145] River crossings to which the 116% proportional basis applied on beyond traffic, showing the lines operating via the respective points, this list having been received from Secretary Rainer of the Joint Rate Committee, viz.:

Name of point	Name of railroad
East Burlington	C. B. & Q. R. R.
	T. P. & W.
East Clinton	C. B. & Q. R. R.
	C. & N. W. Ry.
East Dubuque	C. G. W. Ry.
	I. C. R. R.
East Fort Madison	A. T. & S. F. Ry.
East Hannibal	Wabash R. R.
	C. B. & Q. R. R.
East Keokuk	T. P. & W.
	Wabash R. R.
Keithsburg	Iowa Central R. R.
Quincy	C. B. & Q. R. R.
	Wabash R. R.
Rock Island	C. R. I. & P. Ry.
	Rock Island & Pacific Ry.
Savanna	C. M. & St. P. Ry.
East Louisiana	C. & A. R. R.

1908 (Jan. 1):

Revised westbound rates on basis of 117% of the New York-Chicago rates were issued to East St. Louis and St. Louis as a result of the agitation by commercial interests of St. Louis. (Secretary Bloomingdale's letter and memo. Nov. 29, 1915.)

[fol. 1146] 1908 (Jan. 1):

By conference between Central Freight Association and Eastern lines it was arranged that the 117% basis to East St. Louis would also be applied to other east Mississippi River crossings as proportional basis on beyond traffic in

lieu of the 116% rates which had formerly applied. (Secretary Bloomingdale's letter and memo. Nov. 29, 1915.)

1908 (Effective Jan. 1):

It was specified that the 117% basis would be applied proportionately to east Mississippi River crossings north of Alton, namely, East Dubuque, Savanna, East Clinton, Rock Island, Keithsburg, East Burlington, East Ft. Madison, East Keokuk, Quincy, Hannibal, East Louisiana.
(Frt. Com. Cir. Letter A-886.)

1908:

It was announced that full local rates would be charged westbound, east of East St. Louis on business destined to points west of St. Louis. (Secretary Bloomingdale's letter and memo. Nov. 29, 1915.)

1908 (July 3):

The above was reconsidered and the following adopted:

"Full local rates will be charged east of East St. Louis, [fol. 1147] Ill., on business destined to points west of St. Louis, except where the rates from origin points to St. Louis, plus rates therefrom make through rates that are less than the combination on East St. Louis." (Frt. Com. Cir. Letter A-948, July 3, 1908; Frt. Com. Cir. Letter A-1220, Oct. 26, 1910.)

NOTE.—Trunk Line Frt. Com. Cir. Letter A-1182, May 14, 1910, showing present westbound basis is reproduced as Exhibit "F" to this report.

[fol. 1148] Rates Between Central Freight Association Territory and Points West of the Mississippi River

Disposition of Bridge Toll Between Eastside and Westside Lines on Through Traffic

1889:

Effective August 1, agreement was reached between eastern and western lines providing for through rates between points in the Middle and Western States territory and east Mississippi River points north of East St. Louis to and including Dubuque, Iowa, and certain points west of the Mis-

sissippi River described as follows, but not including transcontinental traffic, namely, traffic destined to or coming from points on or south of Chicago, St. Paul & Kansas City R. R., Dubuque to Waterloo, Iowa, and the Illinois Central R. R., Waterloo, Iowa, to Sioux City, inclusive, or west thereof via such points, on the basis of the rates applicable to or from East St. Louis, as the case may be.

This agreement further stated that the foregoing arrangement was provided for the express purpose of establishing rates based upon the line of the Mississippi River and points in the territory of the Central Freight Association to the same rates as between the latter points and East St. Louis in both directions, except in the cases otherwise provided.

It was further expressly agreed that no device would be resorted to which would tend to reduce the established and authorized rates.

[fol. 1149] This agreement, so far as it relates to rate adjustment, is reproduced as Exhibit "G" to this report.

1896:

As to rates between Mississippi River crossings proper and Central Freight Association points, Chairman Morris advises:

"So far as concerns basis for making rates between Mississippi River east or west bank points and points in Central Freight Association territory (except the western termini of eastern Trunk Lines which have usually been made subject to the same basis as applies from and to points east of said termini) our records do not show what the basis was prior to April 13, 1896, but we assume the rates were made practically on the same principle as was in effect April 13, 1896, viz:

(a) Rates were fixed from and to East St. Louis on a basis relative to those applying from and to other points in Illinois.

(b) Rates from and to St. Louis were made subject to actual bridge arbitraries over the rates from and to East St. Louis.

(c) Rates were fixed from and to east bank points north of East St. Louis to East Burlington, inclusive, which were relative to those established from and to other Illinois points.

(d) Rates from and to west bank points opposite East Burlington, Quincy, East Hannibal and East Louisiana [fol. 1150] were made bridge tolls over the rates from and to east bank points.

(e) Rates from and to east and west banks points north of Burlington and East Burlington to Dubuque and East Dubuque, inclusive, were made the bridge arbitraries in excess of the rates to and from East Burlington. (Letter from E. Morris, Dec. 27, 1915.)"

1906 (Feb. 1):

"The foregoing rates, according to our records, continued to be made on the basis mentioned above until Feb. 1, 1906, (westbound) and Jan. 1, 1906, (eastbound), when the rates from and to St. Louis and East St. Louis were made the following arbitraries, viz:

1	2	3	4	5	6—Classes
—	—	—	—	—	—
2	2	1	1	½	½—Cents per 100 lbs.,

in excess of the rates in effect to and from East St. Louis." (Letter from E. Morris, Dec. 27, 1915.)

1906 (July 16):

"Effective July 16, 1906, the St. Louis rates thus arrived at were applied between points in C. F. A. territory and east and west bank Mississippi River points north of St. Louis and East St. Louis to Quincy, both inclusive." (Letter from E. Morris, Dec. 27, 1915.)

[fol. 1151] 1908 (Feb. 1):

"The rates continued to be made on basis named in paragraph next above until Feb. 1, 1908, when the rates from and to St. Louis and East St. Louis were made the same and applied from and to east and west bank points north thereof to Quincy, inclusive." (Letter from E. Morris, Dec. 27, 1915.)

1914 (Jan. 13):

"From and to Mississippi River east and west bank points north of Quincy to Dubuque and East Dubuque, inclusive, the bases mentioned above were established subject to the basis named in supplemental order of Jan. 13, 1914, to ICC Docket 4424, which resulted in the rates from and to C. F. A. points and Mississippi River points mentioned being made arbitraries in excess of the rates from and to St. Louis, and this is the basis in effect today. The arbitraries are not uniform from and to all C. F. A. points, and can only be ascertained by checking the tariffs." (Letter from E. Morris, Dec. 27, 1915.)

"Cameron's Tariff ICC D-70, * * * excepts certain rates from application on through consigned shipments; for instance, those covered by reference mark 'Circle 40' on page 72, which reads:

'These rates are reshipping rates and will apply from East St. Louis, Madison, or Alton via all lines (except as [fol. 1152] otherwise provided for) on direct through reconsignments from points in Missouri (except St. Louis), Kansas City, Oklahoma, Texas, California, etc.

'Will not apply from St. Louis on direct through consignments.'" Letter from Messrs. Haile, Johnson and Reilly, Nov. 26, 1915.)

Note.—Cameron's Tariff D-70 was cancelled by ICC D-85 (copy attached), effective Sept. 15, 1915, which is designated as "Joint and Proportional Freight Tariff 401-A," applying "on grain, grain products and grain by-products," to points in C. F. A. territory, etc. Said rates are governed by notes on pages 72 and 73, and especially by reference mark "Circle 40," as follows:

(Effective Sept. 15, 1915):

First. These rates apply specifically as provided below on shipments originating at points in the States of Arizona, Arkansas, California, Colorado, Idaho, Illinois (except East St. Louis, Alton, Granite City, Madison and Venice), Iowa, Kansas, Louisiana, Minnesota, Missouri (except St. Louis), Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming, to points of destination named

in tariff, subject to interstate rates from original point of shipment.

2. From East St. Louis, Ill., Alton, Ill., Granite City, Ill., [fol. 1153] Madison, Ill., Venice, Ill. (See exceptions below.)

A. On Grain:

(1) Consigned through.

(2) Reconsigned on track at St. Louis, Mo.

(3) Reconsigned on track at East St. Louis, Ill., Alton, Ill., Granite City, Ill., Madison, Ill., Venice, Ill.

(4) Stopped in transit at elevators or warehouses for transit privileges.

(See paragraph 4 thereof.)

B. On Grain Products:

(1) Consigned through.

(2) Reconsigned on track at St. Louis, Mo.

(3) Reconsigned on track at East St. Louis, Ill., Alton, Ill., Granite City, Ill., Madison, Ill., and Venice, Ill.

(4) Milled or malted at these points; also at Edwardsville, Ill., and Collinsville, Ill., of grain originating at points specified in paragraph 1 hereof. (See paragraph 4 hereof.)

3. From St. Louis, Mo. (See exceptions below.)

A. On Grain:

(1) Reconsigned on track at St. Louis, Mo., when the in- [fol. 1154] terstate rate from original point of shipment to St. Louis, Mo., is less than to East St. Louis, Ill.

(2) Stopped at elevators or warehouse for transit privileges. (See paragraph 4 hereof.)

B. On Grain Products. (See exceptions below.)

(1) Stopped at St. Louis, Mo., for transit privileges when the interstate rate from original point of shipment to St. Louis, Mo., is less than to East St. Louis, Ill.

(2) Milled or malted at St. Louis, Mo., or grain originating at points specified in paragraph 1 hereof. (See paragraph 4 hereof.)

4. Shipments stopped in transit as per paragraph 2, Sections A-4 and B-4, and paragraph 3 hereof, will only be entitled to these rates when handled under transit rules and regulations lawfully on file with the Interstate Commerce Commission.

5. When transit, or milling or malting in transit rules are not in effect, shipments from points specified in paragraph 1 hereof shall be entitled to these rates upon surrender through the transit bureau of original paid freight bills evidencing prior movement, within twelve (12) months, into St. Louis, East St. Louis, Venice, Madison and Granite City at interstate rates applying thereto."

[fol. 1155] 1915:

Following note appears in Agent Cameron's Tariff 400-B ICC D-80, applying on Classes and Commodities, except grain, grain products, etc.:

"NOTE 29.—Reissue, effective Sept. 15, 1915, in Supplement No. 29.

"Rates named from St. Louis-East St. Louis will apply only from East St. Louis, Alton, Beardstown and Ashland, Ill., on shipments originating at points in the States of Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Mexico, Minnesota, Missouri (except St. Louis), Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming, which are consigned directly through. Via lines other than the Chicago & Eastern Illinois R. R. rates named will also apply on shipments originating in the same territory, which are reconsigned or stopped in transit for transferring at East St. Louis, Ill." (Cameron's ICC D-80, Sup. 29, effective Sept. 15, 1915, Note 29, page 3.)

[fol. 1156] Commodities

Disposition of Bridge Toll Between Eastside and Westside Lines on Through Traffic

1892 (May 7):

Proportional rate of 26c per 100 lbs. was established on red sandstone, carloads, from East St. Louis and East Mississippi River points to NewYork, to apply on traffic coming from Colorado. (Jt. Com. Cir. 1420.)

1892 (May 26):

Commodity rate of 4.14 per gross ton on steel rails, carloads, authorized from Eastern Pennsylvania points to East St. Louis locally and to upper east Mississippi River crossings.

This rate did not apply to points located on the west bank of the Mississippi River, but applied only in connection with through business destined to points west of the Mississippi River, not including Pacific Coast points. (Jt. Com. Cir. 1436.)

1894 (March 5):

Effective March 13, rate of 26c per 100 lbs., authorized from East St. Louis to New York on rough quarried granite coming from Missouri. (Jt. Com. Cir. 1687.)

On lead destined to various points east of the Mississippi River rates are published by Chairman Cameron with the following notation:

"From St. Louis, Mo., rates will apply only on shipments smeltered at that point and will not apply on shipments from beyond. (See Cameron's ICC D-69, page 285.)"

[fol. 1157] Concrete Cases Illustrating Method of Handling Bridge Toll Via Mississippi River Crossings

Disposition of Bridge Toll Between Eastside and Westside Lines on Through Traffic

Traffic to or from nearby points to St. Louis and East St. Louis:

1. Between the 100-mile zone West of the river and points beyond the 100-mile zone East of the river: Rates

make on St. Louis—except from Illinois territory where through rates are published—and the eastern line pays the bridge—as, for example, from Detroit to Missouri.

2. Between the 100-mile zone East of the river and points beyond the 100-mile zone West: Largely through rates but otherwise combination makes on East St. Louis and bridge is paid by western lines.

Coal

From Central and Northern Illinois groups, through rates are made to the West without regard to any combination on St. Louis. From the Inner and Outer Groups in Southern Illinois rates are made on basis of proportional rates to East St. Louis of 25 cents to Inner Group and 40 cents to Outer Group. (To certain points such as points on the Frisco and M. K. & T. Ry. within an average of 175 miles, rates from East St. Louis proper are made by adding the bridge toll of 20 cents to rates from St. Louis to said points. This applies where the roads encounter competitive conditions.)

[fol. 1158] Examples of Present Bases

The rates from the Inner and Outer Groups in Southern Illinois to St. Louis proper are 32½ cents higher than the proportional rates to East St. Louis and 20 cents higher than the locals to East St. Louis as authorized by the Interstate Commerce Commission.

Chicago-Illinois-Wisconsin

To Missouri (except Southeastern Missouri), Kansas, Oklahoma, Colorado, Utah, etc.: Arbitrary proportions are named in Ill. Frt. Com. Div. Sheet via East St. Louis, East Hannibal and Alton. These arbitraries, though published in cents per 100 lbs., were figured by taking the Chicago-Kansas City rate—deducting 5c and LCL, 2c on CL traffic and then allowing Chicago-East St. Louis lines 47½% of the balance. For example—the 36c arbitrary on first-class freight allowed Chicago to East St. Louis is arrived at by deducting 5c from the 80c rate Chicago to Kansas City and taking 47½% of the balance, or 35.6c (36c after disposition of fractions).

Divisions via Cairo and Thebes on Oklahoma are made with close relation to East St. Louis divisions—on the classes, lines being allowed Chicago-Cairo over Chicago-East St. Louis (on Oklahoma)

1	2	3	4	5	a	b	c	d	e
3	3	3	3	2	2	2	2	2	2

To Mo. Pac. points in Missouri a similar basis exists but expressed in per cents for audit office convenience.

[fol. 1159] To Southeastern Missouri and Arkansas: General basis is proportion of Thebes rate—neither line north or South of East St. Louis to exceed its local—northbound. Southbound lines east generally get East St. Louis proportional rates.

Louisiana: To and from Mississippi Valley prorating points per cents apply. To and from Alexandria, Shreveport and a few other points per cents apply—all via East St. Louis. On the rest of the State lines east get New Orleans revenue, Shreveport revenue or Texas common point revenue or special divisions—all via East St. Louis, however. (W. C. Maxwell's memo. Oct. 1915).

Lower Mississippi Valley: Through rates are established and divided on per cents. On through business moving via the St. Louis gateway; for instance, the Wabash R. R. arrangements for interchange (either north or south) are as follows, to and from Wabash Western stations: I. C.—East St. Louis; L. & N.—East St. Louis; M. & O.—East St. Louis; Frisco—St. Louis; St. L. S. W.—St. Louis; Southern—East St. Louis; St. L. I. M. & S.—St. Louis.

The idea is that lines operating down the east side have to pay the Ohio River bridge—so west side lines pay St. Louis bridge.

[1160] From Illinois and East all interchange is at East St. Louis, except in connection with the Frisco. (W. C. Maxwell's memo. Oct., 1915.)

Pacific Coast Terminals: Rates to all C. F. A. and East and to a considerable Illinois territory and Wisconsin (Chicago-Milwaukee group) divide on per cents via East

St. Louis. These per cents are, of course, applied up and down the Mississippi River and are aligned with divisions via other gateways. For example: "Mississippi River" per cents apply through Alton, Ashland, Beardstown, Bixby, Cairo, East Carondelet, East Hannibal, East Louisiana, East St. Louis, Reily Lake, Thebes, Wann, while Chicago divisions apply through 28 junctions including Milwaukee and Manitowoc:

	Chicago	Peoria	Miss. River
New York	25%	(East) 29%	29%
Pittsburgh	15%	(West) 27½%	
Detroit	12%	18½%	18½%
Per Cents East		15½%	15½%

Lines east get these proportions of a 75c rate as a minimum.)

In dividing the proportion west of the Mississippi River 2c is deducted at all these Mississippi River points and Charged by all the Western Lines clear to the coast—in contrast with bridge tolls on Kansas or Colorado business [fol. 1161] which are paid by the lines east of the Missouri River. This 2c would be paid East St. Louis to San Francisco.

Mississippi River to Missouri River	22c	2.0.
Missouri River to Colorado	38c	
Colorado to Ogden	58c	
West of Ogden	82c	

Westbound from New England (except Boston, Portland and one or two other points) lines receive their locals to East Mississippi River points.

Texas, Mexico, Oklahoma, Arkansas, Louisiana West of Mississippi River:

(a) To and from C. F. A. and Trunk Line territories—local to and from East St. Louis. Western lines absorb bridge toll.

(b) To and from Chicago and points west of Illinois-Indiana state line per cents are in effect made with reference to the various gateways.

For example: Chicago business to Texas may be handled via any of the crossings named below, allowing up to the crossings named the percentages recited below:

Rock Island	181	miles	15%
East Ft. Madison	231	"	15%
Keokuk	249	"	15%
East Hannibal	280	"	20%
Alton	257	"	20%
East St. Louis	281	"	20%
[fol. 1162] Cairo and Thebes	365	"	22%
Marshalltown	289	"	22%
Council Bluffs-Omaha	493	"	30%
Kansas City	458	"	30%
Memphis	527	"	40%

Higbee, Moberly, East Hannibal revenue plus 1c. per 100 lbs.

Lines west of East St. Louis absorb bridge toll on business routed via East St. Louis.

(W. C. Maxwell memo. Oct. 1915.)

Twin Cities-Lower Mississippi Valley: Routes via St. Louis gateway are both through Iowa Junctions such as Des Moines and Ottumwa and through Illinois junctions such as Chicago and Peoria. Arrangements for interchange are as follows: Wabash West with West side lines at St. Louis (no bridge to pay). Wabash West with East side lines at East St. Louis Wabash pays St. Louis—Eastern lines pay Ohio River bridge). Wabash East with all lines at East St. Louis (Wabash joins in Cairo bridge).

(W. C. Maxwell memo. Oct. 1915.)

Special Divisions: There are special divisions, particularly northbound, arranged via East St. Louis with the idea that they divide by East St. Louis, northern lines being [fol. 1163] asked to name lowest arbitrary north of that point.

In a number of cases the lines south get their full locals to East St. Louis today, and the lines north a low proportion.

As example, reference is made to the divisions on rice, cottonseed meal, oil, cotton, peaches, etc. (W. C. Maxwell's memo. Oct., 1915.)

Between C. F. A. Territory and Colorado, Utah, etc.: To and from C. F. A. points rates are made on Mississippi River combination, western lines absorbing bridge toll.

Between Trunk Line Territory and Colorado, Utah, etc.:

(a) The only through rates in effect apply via ocean and rail and are divided via East Mississippi River points on the same basis via all crossings, East Dubuque to Memphis; namely, percentages applying to east bank, western lines paying bridge toll, if any.

(b) On traffic moving all-rail, through rates are made on combination and western lines absorb bridge toll out of their rates applying to and from the east bank of the Mississippi River.

Between C. F. A., Trunk Line Territories and New Mexico and Arizona: Western lines absorb bridge toll.
[fol. 1164] Between C. F. A., Trunk Line Territories and Missouri, Kansas, Nebraska, etc.:

(a) Rates eastbound are made on East St. Louis combination; western lines absorbing the bridge toll.

(b) Westbound rates are made on East St. Louis combination points outside the so-called 100-mile zone in Missouri; western lines absorbing the bridge toll.

(c) Westbound to points in Missouri inside the so-called 100-mile zone the rates at present are made on St. Louis combination; the east side lines absorbing the bridge toll, but the subject of making the rates to St. Louis applicable to St. Louis proper and the East St. Louis rates applicable on both local and beyond business received affirmative expressions from eastern lines and tariffs will be amended so that the rates westbound shall make on East St. Louis combination, and the same as to the eastbound.

Between Southeast-Carolinas and Points West of Mississippi Miver, Not Including Pacific Coast Terminals:

(a) Rates to and from points in Missouri within the so-called 100-mile zone are made on St. Louis combination. Eastern lines absorb bridge toll.

(b) To and from points in Missouri on Missouri River and where Missouri River rates are maxima, the Evans-

ville-Cairo Missouri River proportional rates are applicable [fol. 1165] and divide by an allowance to the Western lines of their percentage proportion. Western lines absorb bridge toll.

(c) Between Missouri River points other than as mentioned in (a) and (b)—rates are made on East St. Louis combination. Western lines absorb bridge toll.

(d) Between points west of Missouri River where rates are made with relation to the Missouri River, the Evansville-Cairo Missouri River proportional rates are applicable and divide by an allowance to the Western lines of their percentage proportion. Western lines absorb bridge toll.

(e) To and from Colorado, Utah, etc., through rates published are divided by an allowance to the Southern lines, south and east of Cairo, Ill., Evansville, Ind., etc., of the established arbitraries and the remainder subdivided as between the Eastern and Western lines on per cents. Western line's proportion includes the bridge toll.

Between Southeast Carolinas and Pacific Coast Terminals: Through rates are published and are divided on percentages, as well as on specific proportions to and from East St. Louis.

For example: Birmingham District:

To East St. Louis	18%
West	82%

[fol. 1166] Stations west of North Birmingham on the Southern Railway, including Cordova and Parish, Ala.,

To East St. Louis	15%
West	85%

Western lines absorb bridge toll out of their proportion.

On commodities specific proportions are allowed to and from East St. Louis, out of which the Western lines pay the Mississippi River bridge toll.

For example:

Pig iron to California terminals, $7.80 per ton west of East St. Louis.

Pig iron to Northern California terminals, $8.08 per ton west of East St. Louis.

Smoking tobacco, carloads, from Carolinas, west of East St. Louis, $1.28 per 100 pounds.

On cotton piece goods from Carolinas and Southeast the proportions very from 79c to 93c per 100 pounds from East St. Louis.

Through rates are published between Central Freight Association territory and other points east of the Mississippi River to Southwestern territory, which are based differentially over St. Louis, resulting in a parity of rates via all crossings. To and from points in Western Trunk Line and Trans-Missouri territories, rates generally are on the Mississippi River (St. Louis) combination. Between [fol. 1167] Trans-Continental territory and points east of the Mississippi River, through rates are published. In all cases the Eastern lines insist upon the Western roads making delivery to them at East St. Louis, assuming the entire expense of the river transfer, they exacting their full local.

When the rates were advanced 5 per cent under the comparatively recent order of the Interstate Commerce Commission, they took the full measure of the advance, forcing a reduction in the earnings of the Southwestern lines to the extent of the advance until such time as those lines could obtain authority and advance their published through rates. (Letter from Messrs. Haile, Johnson, and Reilly, Nov. 26, 1915.)

Respectfully submitted.

T. C. Powell, V. P. Southern Ry., Chairman; C. Haile, Chief Traffic Officer, M., K. & T. Ry.; W. C. Maxwell, V. P., Wabash Ry.; S. H. Johnson, F. T. M., Rock Island Line; F. C. Reilly, A. F. T. M., Frisco Lines; C. J. Brister, Traffic Manager, Big Four Route, Committee.

Jan. 10, 1916.

[fol. 1168] EXHIBIT A

Office of Chairman Joint Executive Committee, 346 Broadway, New York

At a meeting of the representatives of the Eastern Trunk Lines and Western Roads, held at Chicago, December 18

and 19, 1878, the following Articles of Organization of the Joint Executive Committee were adopted:

1. That this Committee be known as the Joint Executive Committee.

2. It has been organized by the election of Albert Fink as permanent Chairman and as permanent Secretary.

3. The General Office of the Committee shall be located at New York and the Chairman and Secretary be authorized to incur such expense as is necessary to fulfill its purpose.

4. It shall take cognizance of all through competitive freight and passenger traffic in both directions.

5. Its object shall be the maintenance of agreed rates, and the abatement of expense of all such traffic by all initial and connecting lines.

6. It shall convene at the call of the Chairman or any three (3) of its members, on a notice of forty-eight hours, when necessary; otherwise, such additional time shall be given as may be practicable.

7. The point of meeting shall always be in New York, when no other point is specified in the call.

[fol. 1169] 8. The object or objects of every special meeting shall be stated in each and every call therefor.

9. Regular meetings shall be held in New York, the third Tuesday of each month, unless the Chairman advises the members in the prior week that no business will be ready for presentation thereat.

10. The Committee or majority of the Committee, or their representatives, shall constitute a quorum for the transaction of business.

11. If, at any time, two-thirds of the members of the Committee or their alternates or representatives authorized to act, are present, the Chairman shall act and vote for the members absent or those present who are not authorized to act.

12. In case any question brought before this Committee fails to receive its unanimous action, such question shall be

referred to the Chairman, who shall decide the case upon its merits, and whose decision shall have the same force and effect as the unanimous vote of the Committee.

13. Any two or more of the members of the Committee, or their alternates or representatives, may meet and act with the Chairman upon questions local to them.

14. All negotiations between the Committee and companies not represented by it, shall be carried on solely through the Chairman.

15. All companies are to make all complaints as to direct or indirect violations or evasions of rates, promptly, by wire and mail, to the Chairman of the Committee, accom- [fol. 1170] panied, in all cases, with as much proof as may be obtainable.

16. All companies, parties hereto, agree not to take any steps to meet alleged abatements or evasions of rates by their lines until the Committee has acted thereon and announced its conclusions.

17. The Committee is authorized and empowered to specify and enforce against all companies such rules and regulations for its purpose as it may from time to time adopt, and the Committee, or the Chairman acting therefor, may call for all persons and papers it may desire.

18. The Western members of the Joint Executive Committee shall represent and act for all Western Companies with the Western Executive Committee as heretofore represented or acted for.

19. The Chairman of the Joint Executive Committee shall ascertain promptly, and report as early as practicable, what other companies, Eastern or Western, do or do not agree to be bound by its proceedings; and what member, alternate or representative upon the Joint Committee shall represent their several interests.

20. In the event of any company withdrawing its member upon the Committee, or the authority it has given any other member, alternate or representative to act therefor, it shall give not less than thirty days' notice to the Chairman; but this agreement shall nevertheless continue in force among the remaining parties hereto.

[fol. 1171] At a meeting of the Joint Executive Committee, April 23 and 24, the following additional articles were adopted at the recommendation of the President of the Trunk Lines:

21. That each of the Trunk Line Presidents name a member or members who shall act upon the Joint Executive Committee, not only for his own Trunk Line Company, but to represent with full and equal power each and every other company directly or indirectly controlled by the Presidents of the Trunk Lines.

22. That the Presidents further authorize their so appointed representatives upon this Joint Executive Committee to act for such other Western Railroad Companies as may see fit to delegate such authority to them, and that all Western Companies be solicited by the Presidents to delegate such authority to the Trunk Line appointees upon such Executive Committee, or place other permanent representatives for each of their interests upon said Joint Executive Committee.

23. When all the members are named by the Trunk Line and their connections, the Joint Executive Committee shall then alone have the power to make, change and enforce all through passenger and freight rates and rules in both directions, from, to or beyond their respective termini and common points upon all of said competitive traffic, common to any two or more of the Trunk Lines, and prescribe such other rules, regulations and orders and exercise such power [fol. 1172] over all officers, soliciting, contracting, and other agents, as may be necessary for the maintenance and enforcement of agreed rates, classifications, rules and penalties.

24. In the event that any connecting line fails or refuses to delegate authority to any of the other members upon such Joint Executive Committee, or to appoint an independent representative thereon, that the Presidents further authorize the Trunk Line Executive Committee, in connection with the Joint Executive Committee, to take such action as to such companies, as, in the judgment of the Executive Committees, may be deemed proper.

25. That the Presidents affirm the principle of pools, in both directions, upon all through freight and passenger traffic, common to any two or more of the Trunk Lines, and direct their representatives on the Joint Executive Committee to call the full Joint Executive Committee together, at an early date, to perfect such pools, and adopt such rules and regulations for the maintenance of rates and their enforcement, as the said Joint Executive Committee may deem just.

26. In view of the differences then likely to -rise in said Joint Executive Committee, we further urge as an essential to any permanently successful results, the distinct adoption of the principle of arbitration; and in order to carry it into effect, we further recommend that a permanent Board of Arbitration be appointed by the said called meeting of the Joint Executive Committee, which Board shall contiue in permanent session at New York.

[fol. 1173] 27. That any differences of whatever nature, arising in said Joint Executive Committee, in the formation of such pools, or in any matter, act or thing relating thereto, or to the maintenance of rates in the absence of pools, upon which the Joint Executive Committee is not unanimous shall be promptly referred to the said Board of Arbitration, — or that of a majority of its members, shall be final, and binding upon all parties, until changed by unanimous agreement of the Joint Executive Committee, or by the said Board of Arbitration.

In accordance with Articles 26 and 27 the following gentlemen were elected as Arbitrators: Charles Francis Adams, Jr., David A. Wells, John A. Wright.

These gentlemen have agreed to serve for one year, commencing June 1, 1897.

The following resolution determining how the salary of the Arbitrators is to be paid, was adopted at the meeting of April 23.

28. That the salaries to be paid the members of the Board of Arbitration be paid by the several roads represented on the Joint Executive Committee pro rata on the gross earnings from the competitive business, to be ascertained and proportioned by the Chairman of the Committee.

29. That all parties desiring to submit any question for arbitration are requested to notify the Chairman of the Executive Committee, stating the nature of the case to be decided and the time at which they wish the case heard, and that the Chairman of the Joint Executive Committee [fol. 1174] may notify the Chairman of the Board of Arbitration and arrange for the time of hearing the case.

30. That the Chairman of this Committee be, and he is hereby requested to notify the managing or executive officers of all Western Railroads, not already represented in the Joint Executive Committee, of the establishment and organization of said Committee, and of the selection of the Board of Arbitration, and request all such companies, who desire to become parties to and co-operate in the said arrangement, to appoint a member to represent them.

31. That the Trunk Line Executive Committee, representing the Trunk Lines, as well as all such other connecting railroad companies who may authorize the members of this Committee to act for them, constitute a standing committee for the purpose of carrying out the resolutions of the Joint Executive Committee, and to take such other action as may be thought necessary for the maintenance of rates, and the enforcing of all agreements made between the companies represented on the Joint Executive Committee; and, further,

32. That the Standing Committee may obtain the votes in writing or by telegram upon any subject that may be necessary to be acted upon promptly (avoiding thereby as much as possible the necessity of calling together the full Executive Committee), and such votes shall be counted and shall have the same force as if given in full meeting of the members of the Joint Executive Committee; a notice of the result of the vote to be given by the Chairman to all the members of the Committee.

[fol. 1175] At a meeting of the Board of Arbitration held on June 18, the following rules were adopted:

33. The parties concerned in the matter to be referred to arbitration shall in all cases put in writing a statement of facts, supported by such arguments and statistics as they may see fit to present and shall transmit the same to the Chairman of the Joint Executive Committee.

34. On receipt of the foregoing statement the Chairman of the Joint Executive Committee shall specify in writing the exact question or questions which are to be passed upon by the Board and transmit the same to it at once, together with all the statements submitted, or other information in his possession relating to the matter in dispute.

35. The Board of Arbitration shall, as soon as may be, after such papers are received by it, meet for the consideration of the case, and shall either decide the same or make such order in regard to procuring further information or having oral hearings as may seem necessary.

36. The final decision of the Board when arrived at, shall forthwith be transmitted by it to the parties interested and to the Chairman of the Joint Executive Committee.

I certify that the above is a correct copy of the articles of Organization of the Joint Executive Committee, as adopted on Dec. 18 and 19, 1878, and of the amendments up to June 18, 1879.

Albert Fink, Chairman Joint Executive Committee.

[fol. 1176] List of Roads Represented on the Joint Executive Committee June 18, 1879

Atlantic & Great Western
Baltimore & Ohio
Canadian Southern
Central Vermont
Chicago & Alton
Cleveland, Columbus, Cincinnati & Indianapolis
Grand Trunk
Great Western
Indianapolis & St. Louis
Lake Shore & Michigan Southern
Marietta & Cincinnati
Michigan Central
New York Central
New York, Lake Erie & Western
Ohio & Mississippi
Pennsylvania Railroad
Pennsylvania Company
St. Louis, Vandalia, Terre Haute & Indianapolis
Toledo, Peoria & Warsaw
Wabash

[fol. 1177] EXHIBIT B

Office of Joint Executive Committee, 346 Broadway, New York

May 1, 1879.

The Convention assembled at noon.

Present: John King, Jr., representing B. & O., M & C. and O. & M.; G. R. Blanchard, representing N. Y. L. E. & W. and A. & G. W..; A. J. Casatt, representing Penn. R.; J. M. McCullough, representing Penn. Co.; H. B. Hurlbut, representing I. & St. L.; J. B. Dutcher, representing N. Y. C. & H. R.; T. Tillinghast, representing Can. Sou.; G. W. Bentley, representing Ct. Vt.; G. B. Spriggs, representing Gt. W.; John Porteous, representing G. T. Also: W. H. Perry, of the C. S.; L. Mills, of the Ct. Vt.; R. C. Vilas, of the N. Y., L. E. & W.; M. H. Smith, of the B. & O.; D. S. Gray, of the Penn. Co.; W. Stewart, of the Penn. Co.; J. R. T. McKay; H. W. Hibbard, of the Vandalia Line; Geor. W. Valliant, of the L. S. & M. S.; J. T. Moore, of the Grand Trunk; Lucien Hills, of the C. C. & I.; Albert Fink, Chairman; Isaac Markens, Acting Secretary.

[fol. 1178] The Chairman stated he had conferred with the Executive Committee of the Wabash Railroad. They disclaimed any intention of disturbing the rates east of the river, and only asked that their route via St. Louis be protected and put on the same footing with the Chicago routes. The only plan that suggested itself, whereby this result could be attained, was to establish the rates to Mississippi River, and to consider this the line east of which the rates should be maintained by all parties. In accordance with this plan, he had issued a circular calling upon the roads to restore rates to Mississippi River points. The Wabash and all other St. Louis Roads had promptly acted upon this plan, but the roads west of Chicago refused to do so. The latter say they cannot charge more to Missouri River points from Chicago than their local rates. These locals added to the Chicago rate from the East makes a less total to Missouri River points than the present rates to Mississippi River and if the routes south of Chicago were forced to maintain the Mississippi River rates, it would exclude them altogether from this business.

Mr. King offered the following resolution:

Resolved, That the westbound rates to St. Louis be fixed upon the basis of 116 per cent of the rate to Chicago.

Which was referred to the General Freight Agents for their consideration at their meeting tomorrow.

[fol. 1179] Friday, May 2, 1879.

The Convention assembled at 1 o'clock p. m.

The following gentlemen were present in addition to those mentioned in yesterday's proceedings: E. Clark, Jr., R. L. Crawford, of the N. Y. C.; E. R. Wadsworth, of the N. Y. L. E. & W.; J. S. Cochran, of the A. & G. W.; T. Tandy, of the D. G. H. & M.; W. Bullard, of the N. Y. L. E. & W.; H. C. Diehl, of the I. & B. W.; A. C. Rose, of the B. & O.; H. J. Hayden, of the B. & A.

The following report of the Committee of General Freight Agents, on the subjects referred to them yesterday, was then read and adopted.

To the Chairman of the Joint Executive Committee:

The meeting of General Freight Agents called to consider Mr. Garrett's communication relative to a revision of the present basis of making eastbound rates, adopted the following resolution, namely:

That it is the sense of this meeting that a change in the present basis of making eastbound rates by which higher rates from certain points can be obtained, is practicable and desirable.

That a committee of seven shall be appointed to take into consideration this question, and prepare a revised basis, and report the same to an adjourned meeting of General Freight Agents to be held in Chicago on Wednesday, May 14, and that the action of the adjourned meeting called by the foregoing resolution, be reported to the Joint Execu-[fol. 1180] tive Committee for ratification or rejection.

The suggestion of the Joint Executive Committee that westbound rates to East St. Louis be fixed on basis of 116 per cent of the rate to Chicago was read to the meeting, and it was,

Resolved, That this meeting recommend that the change in basis of making rates to East St. Louis be adopted.

10 yeas, 5 nays.

R. C. Vilas, Chairman.

Albert Fink, Esq., Chairman of Joint Executive Committee.

SIR: The Committee of General Freight Agents, appointed by the Joint Executive Committee to prepare and put in effect a revised basis for adjusting eastbound rates, in conformity with resolution adopted June 13, 1879, convened at the Hotel Brunswick, New York, at 8 o'clock same date.

Present: Wm. Stewart, G. F. A., Penn Co.; D. S. Gray, Western Mgr., Penn R. R. Frt. Line; G. H. Valliant, A. G. F. A., L. S. & M. S. Ry.; Lucien Hills, G. F. A., C. C., C. & I. Ry.; Wm. H. Perry, G. F. A., Canada Sou. Ry.; C. W. Bradley, F. Mgr., Wabash Ry.; H. C. Diehl, G. F. A., I. & B. W. Ry.; Geo. G. Cochran, G. F. A., A. & G. W. Ry.; Milton H. Smith, G. F. A., B. & O. R. R.

[fol. 1181] On motion, Milton H. Smith was appointed Chairman and Geo. G. Cochran appointed Secretary.

Resolved, That the following be adopted:

Table of Percentages for computing rates from western competing points to New York revised and issued by authority of the Joint Executive Committee of the Eastern and Western Railroads, to take effect June 23, 1879

Percentage of Rate from Chicago to New York, from

Anderson, Ind.	90	Charlotte, Mich.	92
Alton, Ill.	117	Cairo, Ill.	120
Akron, Ohio	71	Crestline, Ohio	77
Bellefountaine, Ohio	82½	Cleveland, Ohio	73½
Battle Creek, Mich.	92	Circleville, Ohio	79½
Burlington, Ia.	120	Cambridge, Ohio	72
Bloomington, Ill.	109	Champaign, Ill.	103
Chicago, Ill.	100	Camp Point, Ill.	123
Columbus, Ohio	77	Detroit, Mich.	81½
Cincinnati, Ohio	87	Dayton, Ohio	83
Cambridge, Ind.	88½	Decatur, Ill.	108
Crawfordsville, Ind.	96	Danville, Ill.	100

Davenport, Ia.	120	Newcastle, Ind.	88½
Elpaso, Ill.	107	Naples, Ill.	119
Evansville, Ind.	108	Nottawa, Mich.	93
Effingham, Ill.	106	Odin, Ill.	111
Ft. Wayne, Ind.	88	Pekin, Ill.	111
Forest, Ohio	88	Piqua, Ohio	83
Greenville, Ohio	85	Peoria, Ill.	110
Greencastle, Ind.	96	Peru, Ind.	93
Grand Rapids, Mich.	96	Pana, Ill.	109
Galion, Ohio	77	Paris, Ill.	100
Hagerstown, Ind.	88	Painwell, Mich.	94
Hannibal, Mo.	123	Quincy, Ill.	125
Harvard, Ill.	114	Rock Island, Ill.	120
Indianapolis, Ind.	93	Richmond, Ind.	87
Jackson, Mich.	88½	Rushville, Ind.	90
Jeffersonville, Ind.	96	Sandusky, Ohio	78
Jacksonville, Ill.	116	Springfield, Ohio	81
Kokomo, Ind.	94	Sidney, Ohio	84
Keokuk, Ia.	122	Shelbyville, Ind.	92
Kansas City, Mo.	146	Springfield, Ill.	112
Logansport, Ind.	94	Seymour, Ind.	95½
LaFayette, Ind.	98	Sandwich, Ill.	113
[fol. 1182]		South Bend, Ind.	94
Lansing, Mich.	92	St. Louis, Mo.	116
Louisville, Ky.	96	Toledo, Ohio	81½
Lancaster, Ohio	78	Terre Haute, Ind.	98
Litchfield, Ill.	113	Tolono, Ill.	104
Lincoln, Ill.	110	Union, Ind.	85½
Milford Center, Ohio	79½	Urbana, Ohio	81
Mt. Vernon, Ohio	76½	Urbana, Ill.	103
Mansfield, Ohio	76	Vincennes, Ind.	103
Mattoon, Ill.	105	Vandalia, Ill.	109
Madison, Ind.	95½	Waterloo, Ind.	90
Marietta, Ohio	73	Wheeling, W. Va.	65
Marion, Ohio	79	Xenia, Ohio	82
Mason City, Ill.	112	Youngstown, Ohio	66½
Newark, Ohio	74	Zanesville, Ohio	74

Adjust rates to Boston, Philadelphia, Baltimore, etc., as follows, viz:

To Boston, and points taking Boston rates, add 5% per hundred to the rates to New York; Philadelphia and points taking Philadelphia rates, deduct two cents per hundred

from the rates to New York; and to Baltimore and points taking Baltimore rates deduct three cents per hundred from the rates to New York.

[fol. 1183] In computing rates, when the fraction is less than 26-100 of one cent, omit it; when more than 25-100 and less than 76-100 assume it to be one-half cent, and when more than 75-100 assume it to be one cent.

The percentages given *is* the minimum basis for computing rates from the points named, but they may be made upon a higher basis from any point by agreement between the initial lines interested.

Resolved, That the Chairman transmit the foregoing table of percentages to the Chairman of the Joint Executive Committee, with a request that he cause the same to be printed and issued, at the earliest moment practicable.

Milton H. Smith, Chairman. Geo. G. Cochran, Secretary.

[fol. 1184] EXHIBIT C

Circular 897, Issued March 23, 1888 Proportions of Southbound Rates East of the Junctions Named Below

Pursuant to authority given by the undersigned to the Trunk Line Executive Committee acting as the Standing Committee of the Joint Committee on Feb. 29, 1888, the following rates in cents per 100 lbs. will be charged as proportions of through rates on eastbound traffic.

They will take effect at all points named on April 2, 1888, and will supersede those in Joint Committee Circular 893, effective March 19, 1888.

To New York with usual authorized eastbound differentials to other seaboard cities.

		Traffic from—					
%	Points west of	1	2	3	4	5	6
100	Chicago	75	65	50	35	30	25
103	Dwight						
105	Streator						
102	Joliet						
100	Kankakee						
104	Seneca						

110 Peoria 109 Bloomington	80	70	54	38	32½	26½
114 Ashland 116 Beardstown 116 East St. Louis Wann Alton	87	75½	58	40½	35	29

The above proportions replace, until otherwise authorized by the Joint Committee, all prior authority for through rates, percentage bases for making the sum of all divisions of rates at variance therewith.

[fol. 1185] If they are used for back billing, manipulated billing, misrepresented or concealed points of origin, false weights or false classifications, the lines east of the junctions named reserve the right to cancel the proportions on one day's notice and to advance the rates to the foregoing proportions or tariff rates on all pr-perty billed at variance therewith. The above proportions abrogate and will be used in lieu of the following:

1. All percentages from Mississippi River points on eastbound traffic from those points proper and traffic rebilled thereat from points west thereof, except as stated below.

2. All prior divisions eastwardly from points east of the Mississippi River, which have taken the same rates and divisions as the Mississippi River points proper, except as stated below.

3. The former Mississippi River equalized rates.

4. All 110% points as division points which are north of the line of the City of Peoria to Chicago, Ill., as herein below defined.

5. All other divisions herein specified to be abrogated until new divisions are authorized by the Joint Committee.

6. They will apply on traffic from and via St. Paul and Minneapolis, Minn., junctions.

The above proportions will not apply when they are less than the scale rates proper to the following:

1. Traffic originating locally at each and all the above junction points proper. Such tonnage will be charged [fol. 1186] therefrom at the full tariff rates locally therefrom based upon the percentage basis shown in the left-hand column.

Illustration

Traffic from Senecatown or from a point not rates through from west thereof will be charged at 104% of the Chicago tariff rates and may be taken via Chicago.

2. From authorized Pacific Coast points.

3. From points in Arkansas, Texas and Louisiana.

4. From the following towns proper or points east thereof, which take the rates therefrom, viz: Milwaukee via Chicago, East St. Louis or Peoria via Chicago or via the above-named junctions south of Chicago, East Burlington via T. P. & W. R. R., East Hannibal via Wabash Ry., Quincy via Wabash Ry., Keokuk via Wabash or T. P. & W. R. R.

NOTE.—Freight from points named in Section 4 via any other routes than those named is to be billed from the junctions with such other routes at the proportions above given from those junctions.

Waybills for property which come from said junctions from points west thereof at through rates which allow less than the through rates therefrom should show the above proportions with the following notations:

"The rate is the proportion of the through rate."

[fol. 1187] Attention is invited to the following rulings of the interpretation of the foregoing:

Through rates may continue to be made at 110% of the full Chicago tariff rates on traffic which originates locally at all points on and east of a line defined as follows:

From Chicago via the route of the C. B. & Q. R. R. passing through Aurora, Earlville, Mendota, Buda, Wyoming, Elmwood to Peoria, thence via the P. D. & E. R. R. through Pekin, Delavan, Lincoln, Mt. Pulaski, Decatur, Sullivan, Mellon, Toledo, Newton, Olney to Grayville.

The stations on the Central R. R. of Iowa from Cramers, Ill., eastward to Peoria are restored to 110% points.

The Rock Island & Peoria R. R. may take freight from Wyoming and stations east thereof from its line west of Peoria at 110%.

Through rates may continue to be made at 116% at the full Chicago tariff rates on traffic which originates locally from all points on and east of a line defined as follows:

Beginning at the first point southwest of Lincoln, Ill., on the C. & A. R. R. and continuing thence via that railroad via Springfield, Virden, Carlinville, Alton and Wann to East St. Louis inclusive.

Through rates may be made at 120% of the full Chicago rates on traffic which originates at points west of said 116% line to and including those points which are on a line beginning as follows:

Beginning at the first station on the Jacksonville South-
[fol. 1188] eastern, thence to and via Havana, Virginia, Jacksonville, Waverly, Hagaman and Jerseyville to Grafton.

East Burlington and East Keokuk traffic via T. P. & W. via Pekin and Peoria will be continued to be charged from East Keokuk and East Burlington at 122% of the full Chicago tariff rates as last agreed to with western roads.

Traffic via the Wabash Ry. from East Keokuk, Quincy and East Hannibal through Jacksonville and Springfield will continue to be charged by that railway at 122% from East Keokuk, 123% from East Hannibal and 124% from Quincy of the full Chicago tariff rates.

Traffic may continue to be charged from Beardstown and Ashland via the O. & M. R. R. through Springfield, Ill., at not less than 116% of the full Chicago tariff rates.

Traffic originating in the 116% or 120% territory as herein above defined and then exchanged with other roads at junctions in territories having lower percentages as defined herein will continue to be taken.

Traffic coming to the westerly limits of the 110% territory from points beyond that territory will be billed from the 110% line at 110% of the full Chicago tariff rates.

Traffic coming to the westerly limits of the 116% territory from points beyond that territory will be billed from the 116% line at 116% of the full Chicago tariff rates.

Traffic coming to the westerly limits of the 120% territory *to* points beyond that territory will be billed from the
[fol. 1189] 120% line at 120% of the full Chicago tariff rates.

When traffic originates west of the 110%, 116% and 120% lines, it will be charged at 110% from the 110% junctions and 116% from the 116% junctions and 120% from the 120% junctions until otherwise authorized or equalized by

the proper authority. It is, however, expressly provided that those rebilled from the westerly limits of these territories is for the legitimate purpose of changing the route and rebilling thereof.

The roads west of these junctions who have rates thereto, as well as to Chicago, as well as other junction points east of the territorial line described, are not authorized to rebill at the tabulated junction points or elsewhere, except when traffic changes from one railway to another thereat.

In this respect the following extract from Article 3, of the late joint agreement is to be observed:

"Freight shall be billed but once in either direction when over one and the same eastern and western railway, viz: direct to and from the junction of western with eastern lines."

The eastern lines at and via all the junctions named have agreed to act together in the consideration and determination of any changes suggested in this circular or the rulings of inequalities resulting therefrom. Such cases will be promptly considered when presented through the Chairman of the Central Traffic Association to the Committee of that Association of Relations with western roads.

Albert Fink, Chairman. G. L. Blanchard, Vice Chairman.

[fol. 1190] EXHIBIT D

Circular 946

Proceedings at a conference in relation to the establishment of through rates on eastbound traffic to Mississippi River points, held at 346 Broadway, New York, Thursday, October 18th, and Friday, October 19th, 1888

Present: J. W. Midgley, J. N. Faithorn, Chairmen Western Freight Association; J. T. R. McKay, G. F. A., L. S. & M. S. R. R.; C. S. Wight, G. F. A., B. & O. R. R.; J. S. Hammond, G. F. A., N. Y. L. E. & W. R. R.; F. H. Kingsbury, T. F. A., Penna. R. R.; Paul P. Reiner, C. C., Central Traffic Association; C. W. Bullen, Secy.; Albert Fink, Chairman.

Agreement for the Establishment of Through Eastbound Rates on Mississippi River Traffic

Object

Establishment of through rates alike via all routes not only between points on and east of the Mississippi River and the west- termini of the Trunk Lines and east thereof, but also between points west of the Mississippi River and such western termini of the eastern lines and east thereof; the preservation of the through rates thus established without evasion, manipulation or by resort to other devices.

First. Business originating west of the Mississippi River a through rate to be established by applying between East [fol. 1191] Mississippi River points, East Dubuque and south thereof, to and including East St. Louis and the western termini of the eastern Trunk Lines and east thereof, rates based upon 116% of the New York-Chicago rate, as proportion of through rates. Official list to be published showing the rates.

a. Official list to be published showing the rates between points west of the Mississippi River and the east Mississippi River points described, together with the route or routes west of the Mississippi River.

b. No traffic to be taken at less than the sum of the rates herein provided, viz: east of the Mississippi River on the basis of 116% of the New York-Chicago rate; west of the Mississippi River at the rates shown in the official list.

c. To prevent irregularities in list west of the Mississippi River departing from the rates shown, the official list shall upon proper evidence of the fact be assessed on its through traffic, the established tariff rates east of its point of junction with the eastern line and no line party to the agreement shall issue bills of lading via said line on any traffic covered by this agreement, and in like manner east of the Mississippi River departing from the established rates shall upon proper evidence of the fact be assessed on its through traffic to the established tariff rates west of its junction with the western lines and no line party to this agreement shall issue bills of lading via said line on any traffic covered by this agreement.

d. The rates east of the Mississippi River to be divided east and west of Chicago on such average mileage as may [fol. 1192] be agreed upon, the territory to be grouped so as to avoid multiplicity of divisions and from other junction points between Chicago and East St. Louis (not including East St. Louis) on a fair and equitable proportionate basis to the lines east and west of the junctions.

Second. Business originating at or east of the Mississippi River.

e. Through rates to be established between said points and the western termini of the trunk lines east thereof on the basis of percentage of the New York-Chicago rates, the western roads to determine as to the percentages which shall obtain; provided, however, they shall not in any event make rates on a lower basis than the so-called authorized percentages as established by the eastern lines, as for instance 118% of the Chicago-New York rate for Rock Island. Division of the rate thus established to be in accordance with the table of percentages shown in Joint Rate Committee Circular No. 4, of Feb. 1, 1888, or as may hereafter be amended. The adjustment of the rates to be by agreement between the western lines, the eastern lines not to recognize any basis not agreed to by all parties in interest.

f. Rates thus established to be binding upon all parties; any line, either eastern or western, departing therefrom shall upon proof thereof be assessed on its traffic the established local rates to and from point of junction with the eastern or western line as the case may be.

[fol. 1193] Third. Reorganization of Joint Rate Committee.

g. To insure the adjustment of the details of and also the observations of the terms of the agreement herein cited a committee be appointed consisting of Chairman of the Trunk Line, Central Traffic and Western Freight Associations; said committee shall put into effect such inspection of billing, etc., as may be necessary; shall determine as to divisional expenses which may be incurred in the administration of this agreement, and said committee shall also pass on all complaints of all violations of any line of this agreement, majority of said committee to prevail.

Amendments, etc., to Rules in Joint Rate Circular

No. 4, Rule 6, amended to read:

The foregoing divisions to be allowed from Mississippi River only on business legitimately originating thereat or paying full tariff rates from the Mississippi River on regular basis of Chicago rates as above given.

Rule 3, Proposed change of:

Illustration

If Burlington scale is 120% and is advanced to 122%, the proportion from Chicago would still be 74% of 120%, the roads west of Chicago getting the remainder of the through rate.

Messrs. Faithorn and Midgeley objected to the amendment of illustration of Rule 3.

[fol. 1194] On motion, following resolution was adopted:

Resolved: That this committee in submitting the foregoing to their respective associations, call attention to the fact that the committee has not made any recommendations as to the divisions which should apply east and west of the junction points with eastern and western lines of the 116% rate; that said committee believe the most satisfactory manner in which said divisions can be established, will be by joint conference of the lines at interest and therefore suggest that if the basis for an agreement recommended by the committee is acceptable that the joint conference be had of the lines to and from the points of junctions with eastern and western lines.

It was decided by the committee not to consider the basis of westbound rates and divisions between the seaboard and Mississippi River until after an agreement had been reached as regards eastbound rates.

Albert Fink, Chairman. C. W. Bullen, Secretary.

[fol. 1195] EXHIBIT E

Agreement by railways in the territory of the Trunk Line, Central Traffic and Western Freight Associations, for the establishment of through rates and divisions on traffic originating at or destined to the Mississippi River and points east and west thereof, taking effect January 1, 1889

Object

Establishment of through rates alike via all routes not only between points on and east of the Mississippi River and the western termini of the Trunk Lines and east thereof, but also between points west of the Mississippi River and such western termini of the eastern lines and east thereof; the preservation of the through rates thus established without evasion, manipulation, or by resort to other devices.

1st. Business Originating at or Destined to Points West of the Mississippi River—

A. Through rates to be established by applying between east Mississippi River points, East Dubuque and south thereof to and including East St. Louis, and the western termini of the Eastern Trunk Lines and points east thereof, rates based upon 116% of the New York-Chicago rates, as proportion of through rates.

Official List to be published, showing the rates between points west of the Mississippi River and the east Missis- [fol. 1196] sippi River points described, together with the route or routes west of the Mississippi River.

B. No traffic to be taken at less than the sum of the rates herein provided, viz: East of the Mississippi River on the basis of 116% of the New York-Chicago rate; west of the Mississippi River at the rates shown in the official list.

C. To prevent irregularities, any line west of the Mississippi River departing from the rates shown in the official list shall, upon proper evidence of the fact, be subject on its through traffic to establish- tariff rates east of its point of junction with the eastern line, and no line party to the Agreement shall issue bills of lading via said line on any traffic covered by this Agreement; and in like manner any

line east of the Mississippi River departing from the established rates shall, upon proper evidence of the fact, be subject on its through traffic to the established tariff rates west of its junction with the western lines, and no line party to this agreement shall issue bills of lading via said line on any traffic covered by this agreement.

D. The rates east of the Mississippi River to be divided east and west of Chicago on such basis as may be agreed upon, the territory to be grouped so as to avoid multiplicity of divisions, and via other junction points between Chicago and East St. Louis (not including East St. Louis, Alton, Venice or Wann) on a fair and equitable proportionate basis to the lines east and west of the junctions.

[fol. 1197] EXHIBIT F

Trunk Line Association Freight Committee, 143 Liberty Street, New York

Freight Comittee Circular Letter No. A-1132 (Superseding A-1168)

Proportional Rates to East Mississippi River Crossings on Traffic for Points Beyond

Interested lines individually announce that, taking effect July 1, 1910, the westbound rates to East St. Louis will apply as proportional rates to the East Mississippi River crossings named on page 4, on traffic destined to points west thereof as shown herein, in the absence of published through rates to such points:

All Points in Arkansas.

Points in Arizona as follows:

Alicia	Aguila	Bernardino
Alrich	Arey	Biddle
Alta	Arizona City	Block
Alto	Ariz. & Colo. Jct.	Bloxton
Anita	Asco	Blue Bell
Apache	Audley	Bon
Apex	Bawtry	Bouse

Branaman
Brills
Buchan
Bunkers
Burns
Buttes
Bylas
Calumet
Calva
Cavot
Clifton
Clune
Cerbat
Chiricahua
Cochran
Coconimo
Coldwater
Coledon
College Peak
Congress
Cordes
Coronado
Clarks
Corta
Cota
Creamery
Crook
Crown King
Cunningham
Davern
[fol. 1198] Deer Trail
Denny
Divide
Dome
Douglas
Drury
Duncan
Eloy
Enid
Erman
Escala
Eugenie
Fields
Florence
Flores
Forepaugh
Forrest
Frankenburg
Frisco
Galena
Gila
Gilbert
Gilson
Glade
Golden
Grand Canyon
Guthrie
Haeckel
Hanson Junct.
Helena
Henrietta
Hereford
Higley
Holmes
Hopi
Horse Thief
Hull
Humboldt
Iron King
Junction
Kelvin
Kendall
Kennard
Kim
Lancha
Land's Crossing
Lee
Lewis Springs
Linskey
Lirim
Lockhart
Lowell
McQueen
Marana
Marrs
Mesa Junction
Middleton
Mineral
Mobile
Mohawk Station
Moores
Morenci
Naches
Naco
Navajo
Osborn
Pan
Parker
Patagonia
Patio
Pearce
Peck
Peterson
Pica
Piedra
Pinal
Pitt
Poland Junct.
Polvo
Popkess
Prairie
Price
Prieta
Providence
Puntenney
Queen Creek
Rankin
Red Lake
Richardson's Rh.
Riverside
Russell
Saddle
Salome
Servess
Sheldon

Shope
Silicia
Silverbell
Simon
Smith
Solomon
South Siding
Springs
St. David
St. Joseph
Stark
Stoval
Sunshine
Talklai
Tangue
Theba
Thomson
Tinnaka
Tombstone
[fol. 1199] Topock
Tufa
Twelve Mile Spur
Turkey Creek
Twin Buttes R.
R. Junct.
Union
Utting
Vaile
Vanar
Vicksburg
Warren
Webster
Wenden
Willaha
Winkelman
Wood
Wooley
York
Zellweger

All points in Colorado.

All points in Idaho, when routed via Missouri River crossings as specified on page 4.

Points in Iowa, except the following:

Ballinger
Bard
Becks
Bellevue
Bettendorf
Buffalo
Bullards
Burlington
Camanche
Cascade
Clinton
Columbus Jct.
Davenport
Dubuque
Elrick Jct.
Fairport
Foiletts
Fort Madison
Fredonia
Fruitland
Galland
Grandview
Green Island
Gordon's Ferry
Hahn's Spur
Kempers
Keokuk
Lainsville
Latty
Le Claire
Letts
Linton
Linwood
Lyons
Mediapolis
Middle Lock
Montpelier
Montrose
Mooar
Morning Sun
Muscatine
Newport
Oakville
Patterson
Pleasant Creek
Pleasant Valley
Princeton
Round House
Sabula
Sandusky
Shaffton
Sperry
Tile Works
Viele
Wapello
West Burlington
West Keithsburg
Wever

All points in Kansas.

All points in Mexico.

[fol. 1200] Points in Minnesota as follows:

Adrian	Hills	Round Lake
Ash Creek	Kanaranzi	Rushmore
Beaver Creek	Luverne	Sioux Falls Jct.
Bigelow	Magnolio	Steen
Bruce	Manley	Warner
Ellsworth	Org	Worthington

Points in Missouri, except the following:

Alexandria	Folia	Oakwood
Ashburn	Frankford	Orrwood
Bowling Green	Gilmore	Owendale
Briggs	Hannibal (when	Owens
Bisco	via other than	Peno
Brisco	St.L. & H.Ry.)	Perry
Busch	Helton	Ralls Jct.
Canton	Ilasco	Reading
Center	Jones	St. Louis
Clemens	Lambs	Sair River
Cyrene	La Motte	Saverton
Davis	Louisiana	Silex
Edgewood	Love	Troy
Enon	McCune	West Quiney
Eolia	Moody	White Rock
Famous	Moscow	Whiteside
	New London	

Points in Montana, routed via Missouri River crossings as named on page 4, except to:

Amazon	Big Hole	[fol. 1201] Butte
Anaconda	Birdseye	Buxton
Apex	Blomberg	Cameron
Austin	Blossburg	Clancy
Avon	Bluebird	Clough Junc.
Avon Qu'ry Spur	Bond	Corbin
Basin	Boulder	Dawson
Beaudine's	Boyd	Deer Lodge
Bernice	Bradley	Dempsey

Dillon
Divide
Durant
Dyer's
East Anaconda
Easton
Elk Park
Elliston
Feely
Garrison
Glen
Gregson's
Hackney
Hackney Quarry
Helena
Iron
Ironton
Jefferson
Johns
Keith's
Kohr's
Lavon
Maiden Rock
Mares
Meaderville
Melrose
Mill Creek
Mitchell
Montana City
Mountain Jct.
Nissler
Portal
Race Track
Rocker
Ross
Rycker
Silica
Silver
Silver Bow
Silver Bow Jct.
Staton
Stuart
Trask
Walker
Warm Springs
Wickes
Wilder
Woodin
Woodville

All points in Nebraska.

All points in New Mexico.

All points in Oklahoma.

Points in Oregon as follows, when routed via Missouri River crossings as specified on page 4:

Arcadia
Cairo
Huntington
Mallett
Nyssa
Ontario
Vale

Points in South Dakota as follows:

Annie Creek Siding
Anthony's
Apex
Ardmore
Argentine
Argyle
Avaton
Aztec
Belle Fourche
Bench Mark
Beneclare
Berne
Black Hawk
Blacktail
[fol. 1202] Bonesteel
Booge
Brandon
Brennan
Bucks
Buena Vista
Buffalo Gap
Burke
Burks Siding
Calcite
Canton
Central City
Chilson
Corson
Crown Hill
Custer
Dallas
Deadwood
Dewey
Dumont
East Sioux Falls
Edgemont
Elk Point

Elmore
Englewood
Erskine
Este
Evans Siding
Fairburn
Fairfax
Fairview
Galena
Galena Junct.
Gardner
Garretson
Gregory
Harrisburg
Havens
Hermosa
Herrick
Hill City
Holloway
Hot Springs
Hudson
Iron Creek Y.
Ivanhoe
Jefferson
Jones
Juno Spur
Keystone
Kirk
Lead
Level Siding
Loring
Lucile Spur
McCook
Marietta
Maurice
Mayo
Millers
Minnekahta
Moll
Mystic
Nahant
Nemo
Oelrichs
Oreville
Piedmont
Piuma
Portland
Pringle
Provo
Rapid City
Redfern
Rochford
Roubaix
Rowena
Rumford
Runkel
St. Charles
St. Onge
Savoy
Shindlar
Sioux Falls
Smithwick
Spearfish
Spruce
Stage Barn Canyon
Sturgis
Terry
Tilford
Underwood
Valley Springs
Wasp No. 2 Spur
West Nahant
Whitetail Summit
Whitewood
Woodville

All points in Texas.
All points in Utah.
All points in Wyoming.

[fol. 1203] On traffic exempt from the application of the proportional basis named herein the rates westbound will be the sums of locals to Chicago or other junctions of Eastern and Western lines, except that through rates to Montana common points enumerated on page 3 (Amazon to Woodville, inclusive), will be based upon the proportional rates to Missouri River plus locals beyond.

Bills of lading on shipments consigned beyond East Mississippi River crossings and on which the Mississippi River proportonal basis applies shall show the proportions to such crossings, with the following notation:

"The rate to —— is proportion of through rate." The same notation should appear on the waybills.

East Mississippi River Crossings

The following is a list of East Mississippi River Crossings north of Alton, Ill., to which the 117 per cent proportional basis applies, showing the lines operating via the respective crossings:

East Dubuque, Ill., C. G. W.; Ill. Cent.
Savanna, Ill., C., M. & St. P. (All Rail.) Acros Lake Michigan. Via Milwaukee.
East Clinton, Ill., C., B. & Q.; C. & N. W.
Rock Island, Ill., C., R. I. & P.
Keithsburg, Ill., Iowa Central.
East Burlington, Ill., C., B. & Q.; T. P. & W.
[fol. 1204] East Fort Madison, Ill., A., T. & S. F.
East Keokuk, Ill., T. P. & W.; Wabash.
Quincy, Ill., C., B. & Q.; Wabash.
East Hannibal, Ill., C., B. & Q.; Wabash.
East Louisiana, Ill., C. & A.

Missouri River Crossings

Atchison, Kan.; Council Bluffs, Ia.; Kansas City, Kan.; Kansas City, Mo.; Leavenworth, Kan.; Nebraska City, Neb.; Omaha, Neb.; South Omaha, Neb.; St. Joseph, Mo.; Sioux City, Ia.

C. W. Bullen, Vice-Chairman. Jas. Bloomingdale, Secretary.

[fol. 1205] Exhibit G

Joint Rate Committee, "Middle Division," Circular No. 1

Chicago, August 1, 1889.

Pursuant to an agreement between the Eastern and Western lines for the proper conduct of traffic passing between points west of the Mississippi River and points in what is generally known as the Middle and Western States Territory, the following rules will apply, taking effect August

1, 1889, it being understood that traffic which may have been billed out on and after August 1, 1889, at the established percentage divisions as published by the Western Freight Association prior to August 1, 1889, shall be corrected to that basis.

First. Rates shall be made between points in the following described Middle and Western States Territory and East Mississippi River ponts north of East St. Louis, to and including Dubuque, Iowa, on traffic destined to or coming from points on or south of the C., St. P. & K. C. R. R., Dubuque to Waterloo, Iowa, and the Ill. Cent'l R. R. Waterloo, Iowa, to Sioux City, Iowa, inclusive, or west thereof via such points, on the basis of the rates applicable to or from East St. Louis, as the case may be, such rates to be divided east and west of the junction points of Eastern and Western Lines in the manner as hereafter shown in the respective groups, provided that this shall not include Trans-Continental traffic.

Second. The percentage divisions of the through rates to and from the Middle and Western States Territory, as [fol. 1206] hereinafter set forth, shall be of the gross through rates between the initial points in said territory and East St. Louis, that is to say, the gross through rates shall be divided east and west of the junction points as recited, in accordance with the divisions agreed upon.

Third. In order to insure the maintenance of the agreed through rates, the proportions accruing to the lines east or the lines west of the junction points between Eastern and Western Lines shall be retained, and no refund thereof shall be made, even though such proportion should in any case exceed the local rate to or from the said junction points, as the case may be.

Fourth. The foregoing arrangement is provided for the express purpose of establishing rates based upon the line of the Mississippi River and points in the territory of the Central Traffic Association, at the same rates as between the latter points and East St. Louis in both directions, except in cases otherwise provided. It is, therefore, not permisible to use other basing points, as for instance, Peoria, Chicago and other junctions with Eastern roads, by the

application of locals to and from those points, when, owing to the disparities of classification or otherwise, such combinations of rates are lower than the basis of this tariff.

Fifth. In all cases where the proportion east or west of the junction between Eastern and Western roads applies over two or more connecting lines to the Mississippi River, [fol. 1207] the integrity of such proportion shall be absolutely preserved, and no Eastern or Western line shall participate in divisions with intermediate lines, which, by the substitution of a switching charge or other device by such intermediate lines will tend to reduce the established and authorized rates.

Sixth. The percentages agreed upon shall be duly announced by the Joint Rate Committee in charge of this traffic, and it shall be the duty of the Inspection Bureau of the Joint Rate Committee to see that the percentages are properly applied and that the rules as herein set forth are strictly enforced.

[fols. 1208-1240] MAXWELL EXHIBIT No. 60

Copy

Western Trunk Line Committee

Chicago, July 20, 1922.

Mr. E. Morris, Chairman Central Freight Assn., Chicago, Ill.

Joint Rate Committee Agreement

DEAR SIR: There has been a growing tendency upon the part of interested lines in the discussion of matters pertaining to divisions, to depart from the principle of the joint rate committee agreement whenever it develops that certain advantages are to be derived, thus defeating the essential purpose of the joint rate committee agreement, which is to promote the application of broader principles rather than to obtain selfish adjustments.

It is our view that the joint rate committee agreement, which is the result of careful and long deliberation on the

part of Executives, should not be weakened by exceptions possessing little or no merit. If in the handling of disputed questions we can follow the lines laid down by this agreement, a great deal of energy can be conserved and time as well as money saved. We therefore would ask your lines to express themselves definitely as to whether this joint rate committee agreement shall be closely followed in all questions between our respective roads.

I do not wish to suggest that it be reaffirmed because we hold it is in existence until it has been modified or abandoned under proper procedure. If your lines concur in this view, we would like to have a small committee of your traffic executives meet a similar committee of W. T. L. representatives and see if we cannot dispose of some of the pending questions which by delay have caused unnecessary expense and a consequent loss of revenue.

Your truly, (Signed) E. B. Boyd, Chairman.

EBB:N.

[fol. 1241] DEFENDANT'S EXHIBIT No. 39

Witness: Behring

(I. C. C. Docket No. 16697.) Transcript, Page —

Coal Rates and Divisions from Southern Railway Mines in Belleville Group to Western Points, in Cents per Ton 2,000 Lbs.

	Short line mileage	Route	Rate	Sou. Ry. to E. St. L.	Beyond
Kansas City, Mo.....	305	Mo. Pac.....	L-298	51.7	246.3
		.....	F-291	51.7	239.3
		Frisco	298	51.7	246.3
		C., R. I. & P.....	L-298	48.6	249.4
		.....	F-292	48.6	243.4
Topeka Kans.....	366	C., R. I. & P.....	383	48.6	334.4
		A., T. & S. F.....	408	51.7	356.3
		Mo. Pac.....	408	51.7	356.3
		U. P.....	408	51.7	356.3
Fort Scott, Kans.....	377	Frisco	334	51.7	282.3
		Mo. Pac.....	334	51.7	282.3
		M., K. & T.....	334	51.7	282.3
Wichita, Kans.....	497	C., R. I. & P.....	465	51.7	413.3
		A., T. & S. F.....	490	51.7	438.3
		Frisco	490	51.7	438.3
		Mo. Pac.....	490	51.7	438.3

EXHIBIT NO. 70

ILLINOIS FREIGHT ASSOCIATION
TARIFF BUREAU

DIVISION SHEET No. 3-C

(Cancels I. F. C. Division Sheet No. 3-B, Issued by Agent E. B. BOYD)

OF ILLINOIS LINES, Viz.:

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.
Percentage Sheet No. 3000-D.
Cancels Percentage Sheet No. 3000-C.

THE BALTIMORE AND OHIO RAILROAD COMPANY.
(Sandusky, Willard, Stewartsville, Edpre, Ohio, and West.)

THE CHICAGO & ALTON RAILROAD COMPANY.
(William W. Wheelock and William G. Bierd, Receivers.)
Percentage No. 858-D.
Cancels Percentage No. 858-C.

CHICAGO AND EASTERN ILLINOIS RAILWAY COMPANY.
Division Basis No. 47-A.
Cancels Division Basis No. 47.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY.
Division Sheet No. 11907.
Cancels Division Sheet No. 7896.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.
G. F. O. No. 3516-D.
Cancels G. F. O. No. 3516-C.

CHICAGO GREAT WESTERN RAILROAD COMPANY.
Percentage No. 5054-C.
Cancels Percentage No. 5054-B.

CHICAGO, MILWAUKEE AND GARY RAILWAY COMPANY.

CHICAGO, MILWAUKEE AND ST. PAUL RAILWAY COMPANY.
Division Sheet No. C-6888.
Cancels Division Sheet No. B 6888.

CHICAGO, PEORIA AND ST. LOUIS RAILROAD COMPANY.
(Bluford Wilson and William Cotter, Receivers.)
Division Sheet No. D-725.
Cancels Division Sheet No. C-725.

CHICAGO, ROCK ISLAND & PACIFIC RAILWAY CO.
Percentage Issue No. 702-B.
Cancels Percentage Issue No. 702-A.

THE CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY.

THE CLEVELAND, CINCINNATI, CHICAGO AND ST. LOUIS RAILWAY COMPANY.
No. O-2558. Cancels No. N-2558.

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY.

GOODRICH TRANSIT COMPANY.

THE HILL STEAMBOAT LINE.

ILLINOIS CENTRAL RAILROAD COMPANY.
Division Sheet No. 1003-D.
Cancels Division Sheet No. 1003-C.

ILLINOIS TRACTION SYSTEM.
Percent Sheet No. 13-C.
Cancels Percent Sheet No. 13-B.

THE LAKE ERIE AND WESTERN RAILROAD COMPANY.

LITCHFIELD AND MADISON RAILWAY COMPANY.

THE MICHIGAN CENTRAL RAILROAD COMPANY.

THE MINNEAPOLIS AND ST. LOUIS RAILROAD COMPANY.
Percentage Sheet No. 311-B.
Cancels Percentage Sheet No. 311-A.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY.
Division Sheet No. 6120-A.
Cancels Division Sheet No. 6120.

MOBILE AND OHIO RAIL ROAD COMPANY.

THE NEW YORK CENTRAL RAILROAD COMPANY.
(Line Buffalo, N. Y., Clearfield, Pa., and West.)
Percentage Sheet No. 292-C.
Cancels Percentage Sheet No. 292-B.

THE PENNSYLVANIA RAILROAD COMPANY.
(Lines Pittsburg, Pa., Oil City, Pa., Erie, Pa., and West.)
Division Sheet No. F-2321.
Cancels Vandalia R. R. Division Sheet No. E-2321.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY.
(Samuel M. Russell, Receiver.)

TOLEDO, ST. LOUIS AND WESTERN RAILROAD COMPANY.

WABASH RAILWAY COMPANY.
Wabash Division Notice No. 2801.
Cancels Division Notice No. 2643 and 1126-A.

EXHIBIT NO. 70

ILLINOIS FREIGHT ASSOCIATION
TARIFF BUREAU

DIVISION SHEET No. 3-C

(Cancels I. F. C. Division Sheet No. 3-B, Issued by Agent E. B. BOYD)

OF ILLINOIS LINES, Viz.:

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.
Percentage Sheet No. 3000-D.
Cancels Percentage Sheet No. 3000-C.

THE BALTIMORE AND OHIO RAILROAD COMPANY.
(Sandusky, Willard, Stewartsville, Belpre, Ohio, and West.)

THE CHICAGO & ALTON RAILROAD COMPANY.
(William W. Wheelock and William G. Bierd, Receivers.)
Percentage No. 858-D.
Cancels Percentage No. 858-C.

CHICAGO AND EASTERN ILLINOIS RAILWAY COMPANY.
Division Basis No. 47-A.
Cancels Division Basis No. 47.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY.
Division Sheet No. 11907.
Cancels Division Sheet No. 7896.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.
G. F. O. No. 3516-D.
Cancels G. F. O. No. 3516-C.

CHICAGO GREAT WESTERN RAILROAD COMPANY.
Percentage No. 5054-C.
Cancels Percentage No. 5054-B.

CHICAGO, MILWAUKEE AND GARY RAILWAY COMPANY.

CHICAGO, MILWAUKEE AND ST. PAUL RAILWAY COMPANY.
Division Sheet No. C-6888.
Cancels Division Sheet No. B 6888.

CHICAGO, PEORIA AND ST. LOUIS RAILROAD COMPANY.
(Bluford Wilson and William Cotter, Receivers.)
Division Sheet No. D-725.
Cancels Division Sheet No. C-725.

CHICAGO, ROCK ISLAND & PACIFIC RAILWAY CO.
Percentage Issue No. 702-B.
Cancels Percentage Issue No. 702-A.

THE CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY.

THE CLEVELAND, CINCINNATI, CHICAGO AND ST. LOUIS RAILWAY COMPANY.
No. O-2558. Cancels No. N-2558.

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY.

GOODRICH TRANSIT COMPANY.

THE HILL STEAMBOAT LINE.

ILLINOIS CENTRAL RAILROAD COMPANY.
Division Sheet No. 1003-D.
Cancels Division Sheet No. 1003-C.

ILLINOIS TRACTION SYSTEM.
Percent Sheet No. 13-C.
Cancels Percent Sheet No. 13-B.

THE LAKE ERIE AND WESTERN RAILROAD COMPANY.

LITCHFIELD AND MADISON RAILWAY COMPANY.

THE MICHIGAN CENTRAL RAILROAD COMPANY.

THE MINNEAPOLIS AND ST. LOUIS RAILROAD COMPANY.
Percentage Sheet No. 311-B.
Cancels Percentage Sheet No. 311-A.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY.
Division Sheet No. 6120-A.
Cancels Division Sheet No. 6120.

MOBILE AND OHIO RAIL ROAD COMPANY.

THE NEW YORK CENTRAL RAILROAD COMPANY.
(Line Buffalo, N. Y., Clearfield, Pa., and West.)
Percentage Sheet No. 292-C.
Cancels Percentage Sheet No. 292-B.

THE PENNSYLVANIA RAILROAD COMPANY.
(Lines Pittsburg, Pa., Oil City, Pa., Erie, Pa., and West.)
Division Sheet No. F-2321.
Cancels Vandalia R. R. Division Sheet No. E-2321.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY.
(Samuel M. Russell, Receiver.)

TOLEDO, ST. LOUIS AND WESTERN RAILROAD COMPANY.

WABASH RAILWAY COMPANY.
Wabash Division Notice No. 2801.
Cancels Division Notice No. 2148 and 1138-A.

AND CONNECTIONS

IN CONNECTION WITH

THE CHICAGO & ALTON RAILROAD COMPANY.
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.
CHICAGO, ROCK ISLAND & PACIFIC RAILWAY CO.
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY.
(Division Sheet No. 3298-D. Cancels 3298-C.)
MISSOURI PACIFIC RAILROAD COMPANY.
(Division Basis 62-C. Cancels 62-B.)
ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY.
(Division Basis 165-A. Cancels 165.)
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY.
WABASH RAILWAY COMPANY.
AND CONNECTIONS

SHOWING

PROPORTIONS

BETWEEN

Chicago, Ill., Milwaukee, Wis., Peoria, Ill., and Points Taking Same Rates or Arbitraries Higher

AND

East St. Louis, East Hannibal, Alton, Cairo, Gale and Thebes, Ill., Hannibal, Higbee and Moberly, Mo.

OF THROUGH RATES TO AND FROM POINTS IN

Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah

*(AS DESCRIBED ON PAGE 5 HEREIN)

The Divisions named herein will only apply in the absence of other agreed divisions.

ISSUED JULY 26, 1923 **EFFECTIVE AUGUST 1, 1923**

Issued by
C. W. GALLIGAN, Agent,
Transportation Building,
CHICAGO, ILL.

File No. 366-1-10

(500)

C-24667

CONTENTS

SUBJECT	Where Shown	
	Item No.	Page No.
Application of Proportions Shown Herein	1	5
Basis for Division of Rates on Shipments Moving Under Commodity Rates	2, 15 to 630	6, 8 to 20
Basis for Division of Rates on Commodities from Points in Western Colorado	3	6
Basis for Division on Dairy Products	7	6
Commodities, Index of		3 to 5
Disposition of Fractions	8	6
Minimum Charge, Basis for Division of	4	6
List of Arkansas Stations	1	5
List of Colorado Stations	1	5
List of Kansas Stations	1	5
List of Missouri Stations	1, 635	5, 21 to 24
List of Nebraska Stations	1	5
List of Oklahoma Stations	1	5
List of Utah Stations	1	5
List of Stations in Milwaukee Territory	645, 650	25 and 26
Proportions, Class	10	7
Proportions, Commodity	10, 15 to 630	7, 8 to 20
Proportions, Special Commodity	10	7
Potatoes, Division of Rates on	5, 655	6 and 26
Stations taking Milwaukee Divisions or Arbitraries Higher	6	6
Sub-Division of Milwaukee Divisions	640	25

ILLINOIS FREIGHT ASSOCIATION
TARIFF BUREAU

Supplement No. 3
TO

DIVISION SHEET No. 3-C

(Cancels Supplement No. 2)

Supplement No. 3 contains all changes from the original Division Sheet that are effective on the date hereof.

OF ILLINOIS LINES, Viz.:

ALTON & EASTERN RAILROAD COMPANY.
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.
Percentage Sheet No. 3000-D.
THE BALTIMORE AND OHIO RAILROAD COMPANY.
(Sandusky, Willard, Stewartsville, Belpre, Ohio, and West.)
THE CHICAGO & ALTON RAILROAD COMPANY.
(William W. Wheelock and William G. Bierd, Receivers.)
Percentage No. 858-D.
CHICAGO AND EASTERN ILLINOIS RAILWAY COMPANY.
Division Basis No. 47-A.
CHICAGO & ILLINOIS MIDLAND RAILWAY CO.
CHICAGO AND NORTH WESTERN RAILWAY COMPANY.
Division Sheet No. 11907.
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.
G. F. O. No. 3516-D.
CHICAGO GREAT WESTERN RAILROAD COMPANY.
Percentage No. 5054-C.
CHICAGO, MILWAUKEE AND GARY RAILWAY COMPANY.
CHICAGO, MILWAUKEE AND ST. PAUL RAILWAY COMPANY.
(H. E. Byram, Mark W. Potter and Edw. J. Brundage, Receivers.)
Division Sheet No. C-6688.
CHICAGO, ROCK ISLAND & PACIFIC RAILWAY CO.
Percentage Issue No. 702-B.
THE CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY.
THE CLEVELAND, CINCINNATI, CHICAGO AND ST. LOUIS RAILWAY COMPANY.
No. O-2556.
ELGIN, JOLIET AND EASTERN RAILWAY COMPANY.
GOODRICH TRANSIT COMPANY.
THE HILL STEAMBOAT LINE.
ILLINOIS CENTRAL RAILROAD COMPANY.
Division Sheet No. 1003-D.
ILLINOIS TRACTION SYSTEM.
Percent Sheet No. 13-C
LITCHFIELD AND MADISON RAILWAY COMPANY.
THE MICHIGAN CENTRAL RAILROAD COMPANY.
THE MINNEAPOLIS AND ST. LOUIS RAILROAD COMPANY.
Percentage Sheet No. 311-B.
MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY.
Division Sheet No. 6120-A.
MISSOURI-ILLINOIS, RAILROAD COMPANY.
Division Basis No. 133 Authority No. F-506.
MOBILE AND OHIO RAIL ROAD COMPANY.
THE NEW YORK CENTRAL RAILROAD COMPANY.
(Line Buffalo, N. Y., Clearfield, Pa., and West.)
Percentage Sheet No. 392-C.
NEW YORK, CHICAGO AND ST. LOUIS RAILROAD COMPANY.
(L. E. & W. R. R. and T. H. L. & W. R. R. Districts)
THE PENNSYLVANIA RAILROAD COMPANY.
(Lines Pittsburg, Pa., Oil City, Pa., Erie, Pa., and West.)
Division Sheet No. F-2831.
TOLEDO, PEORIA & WESTERN RAILWAY COMPANY.
(Samuel M. Russell, Receiver.)
WABASH RAILWAY COMPANY.
Wabash Division Notice No. 2801.

AND CONNECTIONS

IN CONNECTION WITH

THE CHICAGO & ALTON RAILROAD COMPANY.
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.
CHICAGO, ROCK ISLAND & PACIFIC RAILWAY CO.
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY.
(Division Sheet No. 3298-D.)
MISSOURI PACIFIC RAILROAD COMPANY.
(Division Basis 62-C.)
ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY.
(Division Basis 165-A.)
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY.
WABASH RAILWAY COMPANY.
AND CONNECTIONS

SHOWING

PROPORTIONS

BETWEEN

Chicago, Ill., Milwaukee, Wis., Peoria, Ill., and Points Taking Same Rates or Arbitraries Higher

AND

East St. Louis, East Hannibal, Alton, Cairo, Flinton, Gale, Kellogg and Thebes, Ill., Hannibal, Higbee and Moberly, Mo.

OF THROUGH RATES TO AND FROM POINTS IN

Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah

(AS DESCRIBED ON PAGE 5 OF DIVISION SHEET AS AMENDED)

The Divisions named in Division Sheet, as amended, will only apply in the absence of other agreed divisions.

ISSUED AUGUST 2, 1926

EFFECTIVE MARCH 1, 1926
(Except as noted in individual items.)

Issued by
C. W. GALLIGAN, Agent,
608 So. Dearborn St.,
CHICAGO, ILL.

File No. 2778-M, I. R. C. Dkt. 2571

(Printed in U. S. A.)

(500) C-12399

EFFECTIVE AUGUST 1, 1926, IN SUPPLEMENT No. 3

REFER TO TITLE PAGE OF DIVISION SHEET AND MAKE THE FOLLOWING CHANGES IN LIST OF ILLINOIS LINES

ALTON & EASTERN RAILROAD COMPANY

CHICAGO & ILLINOIS MIDLAND RAILWAY CO.

MISSOURI-ILLINOIS RAILROAD COMPANY
Division Basis No. 133 Authority No. F-598

NEW YORK, CHICAGO AND ST. LOUIS RAILROAD COMPANY
(L. E. & W. R. R. and T. St. L. & W. R. R. District)

REFER TO DIVISION SHEET AND ADD STATIONS ③FLINTON, ILL. AND ③KELLOGG, ILL. IN SAME GROUP WITH CAIRO, GALE AND THEBES, ILL.

Page 24 of Division Sheet: ADD
①St. Charles.....Mo....M. K. & T.

Pages 24 to 26 of Division Sheet: Change.

Now Reads			Change to Read.		
Kolze.....	Ill.	M. St. P. & S. S. M.	Schiller Park,	Ill.	M. St. P. & S. S. M.
Rockefeller,	Ill.	M. St. P. & S. S. M.	Mundelein....	Ill.	M. St. P. & S. S. M.
Shermerville,	Ill.	C. M. & St. P.	Northbrook..	Ill.	C. M. & St. P.

---

*Formerly L. E. & W. R. R. and T. St. L. & W. R. R.
①**Reissue.** Effective September 1, 1924 in Supplement No. 1.
②**ADD: Reissue.** Effective August 20, 1926 in Supplement No. 2.
③**ADD:** Effective March 1, 1926 in Supplement No. 3.

INDEX OF COMMODITIES

Commodity	Item No.
A	
Acid, Muriatic	15
Acid, Nitrating	15
Acid, Sulphuric	15
Alcohol	320
Alumina, Sulphate of	20
Ammoniacal Liquor	325
Angles, Iron or Steel	275
Anodes	390
Asbestos, Building or Roofing, Felt or Paper	420
Ashes, Lead	280
Ashes, Brass	400
Asphalt	420
Attachments, Boiler, as described in	275, 440
Axes	25
Axles (Old)	270
B	
Bagging, as described in	30, 165
Bags, as described in	30, 165
Ballast Spreaders	500
Bar, Iron or Steel	275
Bars, Copper	390
Bars, Grate	275
Bars, Lead	390
Barytes	410
Baskets	40
Beans, Cocoa	130
Beverages, as described in	45
Billets, Steel	55
Binder Board	70
Blocks, as described in	76
Blood, Beef, Fresh	340
Blooms, Steel	55
Blowers, Blacksmiths'	210
Board, as described in	70, 465
Boiler Attachments, as described in	275, 440
Boiler, Iron or Steel	275
Bolts	275
Bone, as described in	60, 65
Bones	250
Borax	
Borings, Iron or Steel	270
Bottles (Empty, Returned)	50
Bottoms, Can	205
Box Board	70
Boxes, Service Curb or Stop Cock	455
Braces	275
Breeze, Coke	125
Brick and articles taking Brick rates, as described in	75, 76, 275, 590
Briquettes, Iron	268
Buffings	400
Building Materials, as described in	420
Bullion	35, 390
Buttermilk	7, 85
Butts	80
C	
Cable, Old	270
Cakes, Copper	35
Calcium, Chloride	570, 575
Calves	300
Cans, as described in	90, 205
Caps, Tin Roofing	420
Cards, Sample	95
Carpet Cork	310
Carpets, as described in	310
Carpeting, Asphalted Paper Felt	310
Carriers, Egg (Wooden)	190
Cases, Egg (Wooden)	190
Cases, Empty, Returned	50
Cattle	300
Cement, as described in	110, 115
Cement, Roofing, as described in	420
Chemicals	185
Chili Saltpetre	565
Chip Board	70
Chloride, Calcium	570, 575
Cider	600
Cinders, Mill	120
Cinders, Pyrites	120
Clay, Fire	76, 275
Clay, Ground	76, 410
Cloth, Shade	165, 540, 550
Cocoanut Oleine	135
Compound, Glucose Base Evaporation, Preventing	140
Conduits, Clay or Shale	76
Concentrates, Ore	385
Concentrates, Zinc	375, 385
Conduit, Pipe	445
Connections, Pipe, as described in	450, 455
Containers, as described in	50
Cooperage, as described in	50
Copper	390
Copper Matte	35, 145
Copper, Sulphate of	150, 390
Cotton Fabrics	165
Cotton Piece Goods	165
Cotton Warp	165
Couplings, Pipe, as described in	455
Cracklings	250
Cranes, Locomotive	500
Cranes, Wrecking	500
Cross Ties, Steel	505
Cryolite	195
Cullet (Broken Glass)	225
Cushions, Egg Case	190
D	
Dairy Products	7, 175
Depilatory	170
Dolomite, Roasted	180
Doors, Boiler	275
Drills (Post), Blacksmiths'	210
Dross, Lead	280, 390
Dross, Type Metal	280
Drugs	185
Drums, Shipping, Iron or Steel	90
Dust, Coal and Coke	125
Dye Stuffs	185
E	
Egg Cases, Wooden	190
Equipment, Freight	495
Equipment, Passenger	490
Excelsior for Egg Cases	190
Explosives, as described in	475
Extracts, Flavoring	185
Extracts, Medicinal	185
F	
Fabrics, Cotton	165
Facings, as described in	125
Fasteners, Metal	420
Fastenings, Railroad Track, as described in	510, 515
Feld Spar	195
Felt, as described in	420
Ferro-Manganese	200
Ferro-Silicon	200
Fibre Board	70
Fillers, Egg Case	190
Fire Clay	76, 275
Fittings, Pipe, as described in	455
Fixtures, for Shade or Curtain Rollers	545, 550
Fixtures, House Door	80
Flats, Egg Case	190
Fleshings, Hide	65
Fluor Spar	195
Forges (Portable), Blacksmiths'	210
Freight Equipment	495
Fronts, Boiler	275
Furniture and parts, as described in	220
G	
Gannister, Ground	76
Gates, Water	455
Glass, Broken (Cullet)	225
Glucose, Base Evaporation Preventing Compound	140
Glucose Syrup	160
Glue Stock	250
Glycerine, as described in	230, 235
Goats	300
Go-Carts, Children's, Collapsible	240
Goods, Cotton-piece	165
Grease	250
Grindings, Emery	400
H	
Hair, Hog	245
Hangers, Barn Door	80
Hangers, House Door	80
Hasps	80
Heads, Boiler	275
Hides, Dry	255
Hides, Green, or Green Salted	250, 260
Hinges	80
Hogs	300
Hollands, Window	165

Commodity	Item No.
Hoofs	65
Horn Pith	65
Horns	65
Horses	300
House Trimmings, as described in	265
I	
Ingots, Copper	390
Iron and Steel Articles, as described in	268, 270, 275, 440, 445, 450, 455, 470, 485, 505, 510, 515
Iron, Angle	275
Iron, Bar	275
Iron, Boiler	275
Iron, Pig	268
Iron, Plate	275
Iron, Scrap	270
Iron, Sheet	275
J	
Jelly, Corn Syrup	160
Joints, Expansion Paving	420
K	
Kegs	90
L	
Lead	35, 390
Lead Dross	280, 390
Lead, Pig	35, 145, 390
Lead, Scrap	280
Lime	295
Limestone, Ground	290
Lining, Cotton Shoddy	165
Linoleum	310
Liquor, Ammoniacal	325
Liquor, as described in	320, 325
Lithopone	625
Live Stock	300
Locomotives	500
M	
Magazines, Paper	335
Magnesia, Sulphate of	530
Manure, as described in	330
Material, Railway, as described in	485
Mats, as described in	310
Matte, Copper	35, 145, 390
Matting, Paper	425
Meats, Fresh or Salted, as described in	340
Medicines	185
Molasses	160
Molds, Ingot	345
Mops	350
Mortar Color	410
Mules	300
N	
Nails	190, 420
Nuts, Iron	275
O	
Ochre, Yellow	410
Oil, Castor	355
Oilcloth, Floor	310
Oil, Cottonseed	360
Oil, Creosote	365
Oil, Linseed	370
Oils, Medicinal	185
Oleine, Cocoanut	135
Ore, Ground Iron	410
Ores, as described in	375, 380, 385
Ore, Antimony	375, 385
Ore, Copper	375, 385
Ore, Lead	375, 385
Ore, Manganese	385
Ore Products, as described in	385
Ore, Red	375
Ore, Silver	375, 385
Ore, Spodumene	380
Ore, Zinc	375, 385
Oxide, Zinc	385, 625
P	
Packing House Products, as described in	405
Pads, Egg Case	190
Pails, Iron or Steel	90
Paint, Dry Earth	410
Paper and Paper Articles, as described in	415, 420, 425
Paper, Building, Roofing or Sheathing	420
Paper, Scrap	430, 480
Passenger Equipment	490
Paving Material, as described in	105
Pelts, Sheep, Dry	255
Pelts, Sheep, Green	250, 260
Pelts, Sheep, Pickled	260
Phosphate, Tri-Sodium	435
Pigs' Feet	65
Piling	275
Pipe, as described in	440, 445, 450
Pitch, as described in	105, 420, 460
Pizzles	65
Plaster Board	465
Plaster, Wall	465
Plate, Iron or Steel	275
Plates, Bottom, Ingot Mold	345
Plates, Copper	35
Plows, Snow	500
Points, Drive Well	455
Poles, Iron or Steel, Telegraph, Telephone or Electric Railway	470
Potassium, Nitrate of	565
Potatoes	5, 655
Powder, as described in	475
Powders, Face	185
Pulp Board	70
R	
Rags	480
Rails, Barn Door	80
Rails, Secondhand	270
Rails, Steel	505, 510
Railway Material, as described in	485
Refrigerators	220
Refuse, Iron Ore	375
Reinforcements, as described in	275
Residue, Brass Foundry, as described in	400
Residue, Copper	35, 390
Residuum, Acid Chamber	280
Rings, Acid Condensing (earthen)	76
Rivets	275
Rods, Drill	455
Rollers, Shade or Curtain	545, 550
Roof Coating	70, 420, 520
Roofing, as described in	70, 105, 420, 520, 595
Rope, Old	480
Rugs, as described in	310
S	
Salt Cake	525
Saltpetre	565
Salts, Epsom	530
Salts, Glauber	580
Sand	535
Scale, Mill	120
Scrap, Iron or Steel	270
Scraps, Hide	65
Screens, Iron Body Well Pipe	455
Separators, Oil, Steam and Water	455
Shade Cloth	165, 540, 550
Shades, Window	550
Shale, Ground	76
Shapes, Fire Brick	76
Sheep	300
Sheet, Iron or Steel	275
Shells, Cartridge, Loaded	100
Shingles, Asbestos	420
Shingles, Asbestos, Flexible	420
Shingles, Asphalt	420
Shot	555
Sinews	65, 250
Skimmings, Brass	400
Skimmings, Lead	280
Skins, Goat, Dry	255
Skins, Goat, Green	250, 260
Skins, Goat, Pickled	260
Skins, Hog, as described in	250, 260
Skins, Pig, as described in	260
Skins, Sheep, Green	250, 260
Skins, Sheep, Pickled	260
Slabs, Concrete or Cement	76
Slate, Crushed	560

INDEX OF COMMODITIES—Concluded

Commodity	Item No.
Slats, Shade or Curtain	545, 550
Soda, Ash	575
Soda, Carbonate of	575
Soda, Caustic	570, 57
Soda, Monohydrate	575
Soda, Sal	575
Soda, Sesqui-Carbonate	575
Soda, Silicate of	570, 575
Soda, Sulphate of	580
Sodium, Nitrate of	565
Solution, Zinc, Chloride	630
Spelter	390
Spiegel Eisen	200
Spiegel Iron	200
Spreaders, Ballast	500
Springs, Valve	455
Staples	80
Starch	585
Steel, Scrap	270
Stool, Ingot Molds	345
Strainers, Iron Body Well	455
Strawboard	70
Stucco	465
Sugar	160
Sugar, Corn	160
Suphides, Iron	385
Sweepings, Brass	400
Switches, as described in	250, 260
Syrup, as described in	160

T

Commodity	Item No.
Tails	250, 260
Tallow	250
Tankage, as described in	250
Tar, as described in	105, 365, 420, 460
Tenders, Locomotive	500
Tile, as described in	76, 275, 590, 595
Tin Plate, Scrap	270, 280
Tooth Washes	185
Tops, Can	205
Track, House Door Hanger	80
Traps, Steam	455
Trimmings, Hide	65, 250
Trimmings, House, as described in	265
Trimmings, Sheepskin, Green	260
Tubes, Boiler	275, 440
Turnings, Iron or Steel	270

V

Commodity	Item No.
Valves, as described in	455
Veneering, Walnut	605
Vinegar	600

W

Commodity	Item No.
Wall Board	70
Wall Plaster	465
Warp, Cotton	165
Washings, Brass	400
Water, as described in	45
Wheels, Car, Old	270, 485
Whiting	410
Witch Hazel	185
Wood Pulp	610
Wood Pulp Board	70

Y

Commodity	Item No.
Yarn, Cotton	165

Z

Commodity	Item No.
Zinc	615
Zinc Chloride Solution	630
Zinc Oxide	385, 625
Zinc, Sulphate of	620

Item No. 1

APPLICATION

The proportions named herein will accrue to the lines east and north of junction points specified, in the division of through rates on traffic to or from the following territory:

Arkansas (See exception [c] below)	Apple Spur	Centerton	Garfield	Kings	Purcell
	Avoca	Condit	Gentry	Lime Kiln	Rogers
	Beaty	Decatur	Gravette	Lowell	Siloam Springs
	Bentonville	Dixon	Hiwasse	Miller Springs	Sulphur Springs
	Buck	Gale	Irelan	Osborne	Wye
Colorado	All stations (see exception [a] below).				
Kansas	All stations (see exception [a] below).				
Missouri	Stations named on pages 21 to 24, inclusive (see exception [b] below).				
Nebraska	All stations (see exception [a] below).				
Oklahoma	All stations (see exceptions [a], [d] and [e] below).				
Utah	All stations (see exception [a] below).				

EXCEPTIONS

(a) Will not apply via or to and from stations on the C. & N. W. Ry. or C. M. & St. P. Ry.
Will not apply on traffic routed via Missouri River Crossings north of St. Joseph, Mo.

(b) Will not apply between C. & N. W. or C. M. & St. P. Rys. stations and stations in Missouri named on pages 21 to 24, inclusive, except the following:
C. R. I. & P.—Windsor and east thereof.
Mo. Pac.—Jefferson City, Boonville, Lexington, Holden, Higginsville, Sedalia, and intermediate points; also points between Boonville and Tipton, Mo.
M.-K.-T.—Holden, Mo., Windsor, Mo., and north and (or) east thereof.
St. L.-S. F.—Springfield and east thereof.

(c) When in connection with C. M. & St. P. Ry. will only apply on traffic to or from Apple Spur, Dixon and Lowell, Ark.

(d) Will not apply on traffic to or from Howe, Potter, Maney Jct., Cameron, Neff, Poteau, Cavanal and Wister, Okla. On traffic to or from these stations, the lines north or east of East St. Louis or other Mississippi River Crossings will receive proportions properly applicable on traffic to or from Arkansas Common Points such as Little Rock, Fort Smith, etc.

(e) The proportions shown herein applying north of Cairo, Gale or Thebes, Ill., will not be prorated via East St. Louis, Ill.

Item No. 2

BASIS FOR DIVISION OF RATES ON SHIPMENTS MOVING UNDER COMMODITY RATES ON WHICH NO COMMODITY DIVISION IS PROVIDED FOR HEREIN

Where no specific commodity division is published herein to apply to shipments moving under through commodity rates, the lines east of Mississippi River Crossings named herein, will receive the same percentage of the class division shown on page 7, that the through commodity rate is of the through class rate. **Applies only in the absence of agreed divisions applicable to such commodities. Will not apply on Potatoes from points north of Chicago, Ill.** (See Item 8.)

Item No. 3

BASIS FOR DIVISION OF RATES ON COMMODITIES FROM POINTS IN WESTERN COLORADO, BEYOND COLORADO COMMON POINTS

In the division of through commodity rates applying from points in Western Colorado beyond Colorado Common Points, the lines east of Mississippi River Crossings named herein, will receive the same percentage of the class division that the through commodity rate from Colorado Common Points bears to the through class rate from Colorado Common Points. (See Item 8.)

Item No. 4

BASIS FOR DIVISION OF "MINIMUM CHARGE" ON SMALL SHIPMENTS ORIGINATING AT OR DESTINED TO POINTS IN ARKANSAS, MISSOURI, KANSAS, NEBRASKA, COLORADO, UTAH AND OKLAHOMA

(a) When the through minimum charge for small shipments is 50 cents, the lines east of East St. Louis, East Hannibal, Alton, Ill., Higbee, Hannibal, or Moberly, Mo., Cairo, Gale and Thebes, Ill., will receive 25 cents.

(b) When the minimum charge on small shipments is based on 100 pounds at the third class rate, it will be divided by first deducting the Mississippi River Bridge Toll as provided for in Terminal Railroad Association of St. Louis Division Sheet No. 15, supplements thereto and reissues thereof, the remainder to be divided by allowing the lines east of Mississippi River Crossings named herein, 50% subject to a maximum of 38 cents per shipment.

Item No. 5

BASIS FOR DIVISION OF RATES ON POTATOES ORIGINATING AT POINTS IN WISCONSIN ON THE M. ST. P. & S. S. M. RY. AND G. B. & W. R. R., DELIVERED BY THE M. ST. P. & S. S. M. RY. AT CHICAGO, ILL., DESTINED TO POINTS IN OKLAHOMA

On Potatoes, C L., originating at points in Wisconsin on the M. St. P. & S. S. M. Ry. and at points on the G. B. & W. R. R delivered by the M. St. P. & S. S. M. Ry. at Chicago, Ill., destined to points in Oklahoma, lines west of East St. Louis, Ill., East Hannibal, Ill., Alton, Ill., Cairo, Ill., Gale, Ill., or Thebes, Ill., to receive the same revenue as on like traffic from **Milwaukee, Wis.**, the balance of the rate north of East Hannibal, Ill., Alton, Ill. East St. Louis, Ill., Cairo, Ill., Gale, Ill., or Thebes, Ill., to divide on agreed percentages. (See Exception (e) on page 5.)

(Cir. 6575, W. T. L.)

Item No. 6

BASIS FOR DIVISIONS ON TRAFFIC AT POINTS FROM AND TO WHICH THE RATES ARE HIGHER THAN APPLY FROM OR TO MILWAUKEE, WIS.

In the division of through rates to or from points north of Milwaukee, Wis., which are higher than the rates applying to or from Milwaukee, Wis., the lines **west** of Mississippi River Crossings shown herein, will receive the same revenue as on like traffic to or from Milwaukee, Wis. The lines north of Chicago, Ill., will receive the arbitrary over the Milwaukee, Wis., rate plus 25% as provided for in Item No. 640.

Item No. 7

BASIS FOR DIVISION OF THROUGH RATES ON DAIRY PRODUCTS

Through rates on Dairy Products (namely: Butter, Eggs, Dressed Poultry; also Buttermilk, in mixed C. L. with the foregoing articles; Rabbits, dressed, in mixed C. L. with Dressed Poultry), C. L., which are less than Third Class rates, will be divided east and west of **East** bank Mississippi River Crossings on percentages arrived at by using the division of the Third Class rates as factors (see Example).

EXAMPLE.—The Third Class rate from Wichita, Kan., to Chicago, Ill., is 131 cents and divides as follows:
Lines west of **East** bank Mississippi River Crossings, 102 cents=78% of 131 cents.
Lines east of **East** bank Mississippi River Crossings, 29 cents=22% of 131 cents.
The Commodity rate on Dairy Products from Wichita, Kan., to Chicago, Ill., is 116 cents:
78% of 116 cents=90½ cents, or proportion accruing to lines **west** of **East** bank Mississippi River Crossings (see Note).
22% of 116 cents=25½ cents, or proportion accruing to lines **east** of **East** bank Mississippi River Crossings (see Note).

Note.—Where Illinois lines receive shipments at Hannibal, Higbee, or Moberly, Mo., they will be entitled to Hannibal Bridge Tolls, in addition to proportions accruing to lines east of **East** bank Mississippi River Crossings.

(Cir. 1057.)

Item No. 8

DISPOSITION OF FRACTIONS

When the application of the bases in Items Nos. 2 and 3 result in fractions of a cent, same will be disposed of as follows:
Less than ½ cent will be dropped.
½ cent will stand.
Over ½ cent will be counted as next whole cent.

Item No. 10

CLASS PROPORTIONS

Applicable only when Class Rates are assessed as per Western Classification and Exceptions thereto. (See also Item 2.)

Applicable on TRAFFIC To and From Points in (For Application, see page 5)	AND	PROPORTIONS IN CENTS PER 100 LBS. CLASSES 1	2	3	4	5	A	B	C	D	E
Between CHICAGO, ILL., and points taking same rates											
Arkansas, Colorado (see Item 3), Kansas, *Missouri, Nebraska, Oklahoma and Utah	East St. Louis....Ill. East Hannibal....Ill. Alton....Ill.	54	43	29	19	18	22	18	14	12	10
Oklahoma	Cairo....Ill. Gale....Ill. Thebes....Ill.	58½	47½	33½	23½	21	25	21	17	15	13
Between MILWAUKEE, WIS., and points taking same rates											
Arkansas, Colorado (see Item 3), Kansas, *Missouri, Nebraska, Oklahoma and Utah	East St. Louis....Ill. East Hannibal....Ill.	63	50½	35	23½	21	25	21	17	15	13
Oklahoma	Cairo....Ill. Gale....Ill. Thebes....Ill.	67½	55	39½	28	24	28	24	20	18	16

CLASS AND COMMODITY PROPORTIONS

Applicable on TRAFFIC To and From Points in (For Application, see page 5)	AND	
Between PEORIA, ILL., and points taking same rates		
Arkansas, Colorado (see Item 3), Kansas, *Missouri, Nebraska, Oklahoma and Utah	East St. Louis....Ill. East Hannibal....Ill. Cairo....Ill. Gale....Ill. Thebes....Ill.	Lines west of East St. Louis, East Hannibal, Cairo, Gale and Thebes, Ill, will receive same proportions as they receive in the division of rates to and from Chicago.
Between CHICAGO, ILL., MILWAUKEE, WIS., PEORIA, ILL., and points taking same rates		
	Hannibal....Mo.	East Hannibal proportions plus current Hannibal Bridge Tolls, as shown in W. T. L. Division Sheet No. 543.
Between CHICAGO, ILL., MILWAUKEE, WIS., PEORIA, ILL., and points taking same rates		
	Higbee....Mo.	Westbound only. One and one-half (1½) cents per 100 lbs. higher than East St. Louis proportions, plus current Hannibal Bridge Tolls.
	Moberly....Mo.	Eastbound only. East Hannibal proportions plus current Hannibal Bridge Tolls, as shown in W. T. L. Division Sheet No. 543.

SPECIAL COMMODITY PROPORTIONS

*In dividing Commodity rates between Chicago, Ill., and common points, and Columbia, Hermann, Jefferson City, ①North Jefferson Sedalia, and Washington, Mo., **which are lower than Missouri River basis,** the following divisions will apply:

Jefferson City ①North Jefferson Sedalia	50% east of East St. Louis, Alton, Ill., or East Hannibal, Ill. 50% west of East St. Louis, Alton, Ill., or East Hannibal, Ill.
Columbia Hermann Washington	55% east of East St. Louis. 45% west of East St. Louis.

St. Louis Bridge Tolls, as per Terminal Railroad Association of St. Louis, Division Circular No. 15, supplements thereto or reissues thereof, to be deducted before prorating, and accrue to the line handling the traffic across the river.

*In dividing Special Commodity rates between Milwaukee, Wis., and common points, and Jefferson City, ①North Jefferson, Sedalia, Columbia, Hermann and Washington, Mo., which are lower than Missouri River basis, the lines north of Chicago, Ill. and Chicago Junctions will receive 25% of the current East St. Louis, Ill.-Milwaukee, Wis., arbitrary as named herein. The balance to be divided on the same percents as on Chicago proper business, shown above.

St. Louis Bridge Tolls, as per Terminal Railroad Association of St. Louis, Division Circular No. 15, supplements thereto or reissues thereof, to be deducted before prorating, and accrue to the line handling the traffic across the river.

①In division of Special Commodity rates to or from North Jefferson, Mo., lines east of East St. Louis, East Hannibal or Alton, wil receive same proportions as they receive on traffic to or from Jefferson City, Mo., when in connection with Mo. Pac. Ry.

(Cir. 5911.)

Item No.	COMMODITIES (See Also Items Nos. 2 and 3). Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1) and Points Shown Below and Points Taking Same Rates		Cairo, Gale and Thebes, Ill. (See Note 2) and Points Shown Below and Points Taking Same Rates	
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
15	Acid, in tank cars, viz.: Sulphuric. Muriatic. Nitrating (Mixed Nitric and Sulphuric).	13	16	16	19
20	Alumina, Sulphate of (West Bound only).	14	17	17	20
25	Axes (West Bound only).	23	26	26	29
30	Bags and Bagging, in bales or rolls, viz.: Brown Cotton. Cotton Grain. Burlap. Jute. Clayed. Also Cotton Lined Burlap Bags.	14	17	17	20
35	(West Bound only) Base Bullion. Copper Plates. Copper Cakes. Copper Residue. Also Copper Matte, in mixed C. L. with above articles. Lead. Also Pig Lead, in mixed C. L. with above articles.	13	16	16	19
40	(West Bound only) Baskets (Stave, Splint and Stave Rattan Bark).	30	33	33	36
45	Beverages, Cereal, Non-Intoxicating. Beverages, Carbonated, Flavored or Phosphated (not including Extracts or Syrups). Water, Plain, Mineral or Carbonated, including Mineral Water, Concentrated or Fortified.	15	18	18	21
50	Containers, used in transportation of cereal beverages, non-intoxicating or beverages, carbonated, flavored or phosphated; water, plain, carbonated or mineral. Empty, returned, viz.: Cooperage. Bottles, in barrels or cases. Cases, without bottles.	8	11	11	14
55	Billets (Steel). Blooms (Steel). In dollars and cents per ton of 2,240 pounds.	2.31	2.98	2.98	3.65
60	Bone, Ground (East Bound only).	13	16	16	19
65	Bone (except Ground Bone or Fresh-meat Bones). Horn Pith. Hoofs. Pigs' Feet (Inedible). Horns. Pizzles. Hide Trimmings (Green). Sinews. Hide Trimmings or Scraps and Fleshings.	12	15	15	18
70	Binder Board. Box Board (Paper). Chip Board. Fibre Board. Pulp Board. Straw Board. Wall Boards (fibre board, pulp board or straw board, built-up; not decorated; and fibre board, pulp board or straw board and wood combined). Wood-pulp Board. Also Roofing and Roof Coating, in mixed carloads with Wall Board.	12	15	15	18

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided.	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
75	**Brick (Enameled or Glazed, other than Salt Glazed).** Also in mixed carloads with other **Brick.**	12	15	15	18
78	**Brick** and articles taking Brick rates, straight or mixed carloads, viz.: **Brick, Building or Facing** (solid, hollow or perforated), except enameled or glazed, other than salt-glazed. **Brick,** Fire, including Fire Brick Shapes. **Brick,** Broken, Crushed or Ground. **Brick,** Salt-glazed, when shipped in same manner as building or facing brick. **Brick or Block,** Paving, Shale or Fire Clay. **Blocks,** Clay, Shale, Cement, Concrete, Gypsum or Artificial Stone, Building or Facing (solid, hollow or perforated), except Enameled or Glazed. **Blocks,** Creosoted Paving. **Blocks,** Silo, Radial-Chimney and Segment. **Blocks and Tile,** Hollow Building or Condensing. **Clay,** Fire. **Clay,** Ground. **Conduits,** Clay or Shale, not lined. **Ganister,** Ground. **Rings,** Acid Condensing (earthen). **Shale,** Ground. **Slabs,** Clay or Shale, not enameled, not roofing or ornamental, loaded loose in cars when shipped in same manner as building or facing brick. **Slabs** (concrete or cement reinforced), building or roofing. **Tile,** Hollow Building or Fire Proofing. **Tile,** Fire Clay (not glazed or enameled).	6.7	9.5	9.4	12.2
80	**Barn Door Hangers.** **Butts.** **Barn Door Rails.** **Hasps.** **Hinges.** **Staples.** **House Door Hangers, Track and Fixtures.**	18	21	21	24
85	**Buttermilk, Condensed, Dried or Evaporated,** in bulk in bags, barrels or boxes (**East Bound only**).	15	18	18	21
90	(**West Bound**) **Cans,** Iron, Steel or Tin. **Drums,** Iron or Steel Shipping, made of metal of U. S. standard gauge No. 20 or thinner. **Kegs,** Iron or Steel, made of metal U. S. standard gauge No. 20 or thinner. **Pails,** Iron or Steel, tinned. **Note.**—Applies only on **Cans** and **Pails** (either or both), in mixed carloads with shipping drums and kegs (either or both); the quantity of drums and kegs (either or both) in the mixed carload to be not more than 33⅓% of the weight of the entire carload.	22	25	25	28
95	**Cards, Sample (West Bound only).** **Note.**—Rates apply only on Advertising Cards to which small samples of Dry Goods are attached.	30	①33	33	②36
100	**Cartridge Shells, Loaded (West Bound only).**	19	22	22	25

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

①Lines north of Chicago, Ill., receive 9 cents per 100 pounds.

②Lines north of Chicago, Ill., receive 9¼ cents per 100 pounds.

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
105	**Paving and Roofing Material, viz.:** Asphaltic, Pitch, Petroleum Pitch, Tar. (in solid form.) **Tar, viz:** Asphaltic. **Pitch, viz.:** Asphaltic. Also **Pitch Coal Tar, Tar, Coal, Tar, Petroleum** (In mixed C. L. with above articles.)	8	11	11	14
110	**Cement, Hydraulic or Portland (West Bound only).**	8	.....	10	.....
115	**Cement, Asbestos (West Bound only).**	11	14	14	17
120	**Cinders, Mill. Scale, Mill. Cinders, Pyrites.** In cents per ton of 2,240 pounds.	1.42	2.09	2.09	2.76
125	(West Bound only) **Coal Facings. Coke Dust. Coal Foundry Facings. Coke Breeze. Coal Dust.** In cents per ton of 2,000 pounds.	1.70	2.30	2.30	2.90
130	**Cocoa Beans (West Bound only).**	22	25	25	28
135	**Cocoanut Oleine (West Bound only).**	16	19	19	22
140	**Compound, Glucose Base Evaporation Preventing.**	16	19	19	22
145	**Copper Matte. Pig Lead (West Bound only).**	8	11	11	14
150	**Copper, Sulphate of (West Bound only).**	13	16	16	19
160	**Glucose Syrup** (Unmixed Corn Syrup), in bulk in barrels or in tank cars. **Syrups** (except Cider Syrups, Coloring Syrups, Flavoring Syrups or Fruit Syrups), not medicated, in packages or tank cars. **Molasses,** in packages or tank cars. **Corn Sugar,** in packages. **Corn Syrup Jelly,** in packages.	16	19	19	22
165	**Cotton Piece Goods, any quantity, as follows: Cotton Fabrics** (made wholly of Cotton) in the original piece (but not finished articles ready for immediate use), packed in rolls covered with burlap, or in boxes or bales. **Bags and Bagging** (other than Burlap, Gunny or Jute), L. C. L. **Cotton Shoddy Lining. Cotton Warp. Cotton Yarn. Shade Cloth, L. C. L. Window Hollands.** (Plain, uncut and undecorated, in bales, O. R. C., or in boxes.)	34	40	37	43
170	**Depilatory (West Bound only).**	19	22	22	25
175	**Dairy Products.**	See Item No. 7.	See Item No. 7.	See Item No. 7.	See Item No. 7.
180	**Dolomite, Roasted (West Bound only).**	9	12	12	15

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
185	(West Bound only) **Drugs, Chemicals, Medicines** } Classed under head of Chemicals, Drugs and Medicines in Western Classification. **Dye Stuffs** } Classed under head of Dye Stuffs in Western Classification. **Extracts, Flavoring, Extracts, Medicinal. Face Powders. Oils, Medicinal. Tooth Washes. Witch Hazel.** Note.—Does not include Nitric, Muriatic or Sulphuric Acids, Phosphorus, Opium nor Toilet Articles.	37	43	40	46
190	**Egg Cases or Egg Carriers: Wooden Egg Cases or Carriers,** K. D., and **Egg Case Fillers and Flats,** K. D. packed in Egg Cases or in bundles or nested, straight or mixed carloads, or in mixed C. L. with **Excelsior, Excelsior Cushions** or **Pads,** and **Cement Coated Egg Case Nails.**	15	18	18	21
195	(West Bound only) **Feld Spar. Cryolite.** Also **Fluor Spar,** in mixed carloads with foregoing articles.	15	18	18	21
200	(West Bound only) **Ferro-Silicon. Ferro-Manganese. Spiegel-Eisen (Spiegel-Iron).**	2.31	2.98	2.98	3.65
	Ferro-Manganese (East Bound only). In dollars and cents per ton of 2,240 pounds.	2.31	2.98	2.98	3.65
205	**Cans** (Fibreboard, Paper, Pulpboard or Strawboard), with Fibreboard, Paper, Pulpboard, Strawboard tops or bottoms. Also **Cans** (Fibreboard, Paper, Pulpboard or Strawboard) with metal tops or bottoms, in straight or mixed carloads or mixed carloads with Cans (Fibreboard, Paper, Pulpboard or Strawboard), with Fibreboard, Paper, Pulpboard or Strawboard tops or bottoms.	30	36	33	39
210	(West Bound only) **Forges (Portable), Blacksmiths'. Blowers, Blacksmiths'. Drills (Post), Blacksmiths'.**	19	22	22	25
220	**Furniture,** as described in Western Classification, in straight or mixed carloads. **Furniture and Furniture Parts,** as described in Western Classification, in mixed carloads. **Furniture Parts,** as described in Western Classification classified 4th Class or higher, straight or mixed carloads. Also **Household Refrigerators,** in straight carloads or in mixed carloads with Furniture	22	26½	25	29½
225	**Glass, Broken (Cullet).**	11	14	14	17

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided)			
		BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
230	**Glycerine** (other than chemically pure or bleached). In metal cans, boxed, in iron drums, or in tank cars.	12	15	15	18
235	**Glycerine** (chemically pure).	16	19	19	22
240	**Go Carts, Children's, Collapsible,** crated, flat.	20	24½	23	27½
245	**Hair, Hog (Wet) (West Bound only).**	12	15	15	18
250	(East Bound only) **Green or Green Salted Hides. Sheep Pelts. Sheep Skins. Goat Skins. Hide Trimmings. Hog Skins. Grease. Tallow. Tails.** **Tankage** (Classified Class "E" in Western Classification). **Switches. Cracklings. Bones** (except Fresh Meat Bones). **Glue Stock. Cattle Sinews.** In mixed carloads only.	16	19	19	22
255	**Hides (Dry) Goat Skins (Dry) Sheep Pelts (Dry)** } In bundles or bales. (East Bound only)	23	27½	26	30½
260	**Hides, Green. Hides, Green, Salted. Pelts, Sheep, Green. Pelts, Sheep, Pickled. Skins, Goat, Green. Skins, Goat, Pickled. Skins, Hog or Pig.** **Skins, Sheep, Green. Skins, Sheep, Pickled. Switches, Cattle. Tails, Cattle. Trimmings, Sheep Skin, Green.** Cured (Salted, Pickled or Smoked). Also **Hog or Pig Skins, Green, or Fresh Frozen,** may be included in mixed carloads with one or more of the articles mentioned above, at the carload rates applicable on each.	16	19	19	22

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
285	**House Trimmings, viz.:** When made of Mahogany Lumber and polished or varnished; or not polished or varnished; also when made of other woods and polished or varnished. Angle Beads. Astragals. Balusters. Balustrade Wood. Blinds, inside and outside Closet Seats. Closet Tanks. Corner Beads. Cornice Brackets. Doors, Panel. Doors, Screen. Doors, unglazed or glazed with common window glass, or glass taking the same C. L. rating as common window glass in Western Classification. Gabel Ornaments. Grille Work. Panel Jambs. Panel Wainscoting and Ceiling. Pantry Fittings, K. D. Pilasters. Porch Work (Newels, Columns, Railings, Balusters and Post Ornaments), K. D. Sash, unglazed or glazed with common window glass, or glass taking the same C. L. rating as common window glass, in Western Classification. Scroll Work. Shelves. Shutters, inside and outside. Spindles. Stair Work (Newels, Risers, Treads, Railings, Balusters and Post Ornaments), K. D. and taken apart. Window, Door, Blind and Screen Frames, set up or K. D. Window Screens.	20	24½	23	27½
	Base Boards Blocks, Corner and Base Blocks, Head and Plinth Carpenters' Mouldings, Casing, Wainscoting, Window Stools, Aprons or Hoods, Closet Fittings. Cresting. Door Jambs. Doors (common Pine), polished. Doors (other than common Pine), unglazed, painted or grained and varnished or polished, or not varnished or polished. Bookcases. Cupboards. Sideboards. } When polished or varnished. Mirror Frames. Interior Trimmings. Piazza Columns. Porch Columns. Rosettes. Portiere Work. Store Fronts. Turned Work, entering into the construction of buildings. Picture Frames China Cabinets Mantels } K. D				
268	**Iron (Pig).** **Iron Briquettes.** In dollars and cents per ton of 2,240 pounds.	2.02	2.09	2.69	3.36

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
270	**Iron or Steel (Scrap), including:** **Axles (Old).** **Iron or Steel Borings.** **Car Wheels (Old).** **Iron or Steel Turnings.** **Tin Plate (Scrap).** **Cable (Old),** in pieces not exceeding 50 feet in length. Also **Secondhand Rails,** in mixed C. L. with foregoing articles.	10	13	13	16
275	**Iron or Steel Articles, viz.:** **Angle.** **Bolts.** **Plate.** **Bar.** **Braces.** **Rivets.** **Boiler.** **Nuts.** **Sheet.** **Boiler Head.** **Piling.** **Concrete or Plaster Column Reinforcement,** Iron or Steel, Spiral. **Boiler Attachments,** consisting of **Boiler Tubes.** **Fronts.** **Boiler Flue Tile.** **Grate Bars.** **Doors.** Also **Fire Brick and Clay.** } In mixed carloads.	18	21	21	24
280	**Acid Chamber Residuum.** (Impure Lead Sulphate) **Ashes, Lead.** **Skimmings, Lead.** **Dross, Lead.** **Tin Plate, Scrap.** **Lead, Scrap.** **Type Metal Dross.**	10	13	13	16
290	**Limestone** (Ground).	6.2	8.6	.....	.....
295	**Lime (West Bound only).**	9	11.7	11.7	14
300	**Live Stock:** Cattle and Calves (Calves single-deck only)—Hogs, D. D.	○ ♯17	● ♯16½	.....	.....
	Hogs and Sheep S. D.	④23	④20	.....	.....
	Sheep and Goats D. D.	④17	④16½	.....	.....
	Horses and Mules.	④21.5	④21.5	.....	.....
	Exceptions. Will not apply on Stock Cattle in connection with C. R. I. & P. Ry. as a western line. (Cir. 1207)				
310	(West Bound only) **Carpet or Carpeting and Door or Floor Mats, viz.:** **Cork Carpet.** **Floor Oilcloth.** **Linoleum.** **Paper Felt Carpeting,** asphalted and painted or decorated. **Linoleum Mats or Rugs.** **Paper Felt Mats or Rugs,** asphalted and decorated.	20	①24½	23	②27½

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

♯Will also apply to or from Higbee, Mo., Hannibal, Mo., or Moberly, Mo.

○Applies from Lower Missouri River Crossings and points in Missouri shown in Item No. 1.

●Applies from other origin points.

①Subdivide on basis of allowing lines north of Chicago, Ill., 6.5 cents per 100 pounds.

②Subdivide on basis of allowing lines north of Chicago, Ill., 7¼ cents per 100 pounds.

④Also applies north of Hannibal, Mo.

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided)			
		BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
320	**Liquors, Alcoholic, viz.:** **Alcohol** (other than denatured or Wood), in metal cans in barrels or boxes, or in wooden barrels or steel drums. Also **Denatured and Wood Alcohol,** in wood, or in glass, packed in boxes, in mixed carloads with the foregoing articles.	25	(3)29½	28	(4)32½
325	**Liquor, Ammoniacal,** in tank cars (**West Bound only**).	13	16	16	19
330	**Manure** (**East Bound only**).	8	11	11	14
335	**Magazines** (Paper), in boxes, bundles or sacks. (**West Bound only**).	25	(1)29½	28	(2)32½
340	**Meats, Fresh,** as described in List No. 1, Rule No. 371, of W. T. L. Circular No. 1-Q, E. B. Boyd's I. C. C. No. A-1385, P. S. C. Mo. No. 272, supplements thereto and reissues thereof, including **Fresh Beef Blood,** in barrels or pails. **Meats, Salted,** as described in List No. 2, Rule No. 371, of W. T. L. Circular No. 1-Q, E. B. Boyd's I. C. C. No. A-1385, P. S. C. Mo. No. 272, supplements thereto and reissues thereof.	16	(5)19	19	(6)22
345	**Ingot Molds, Ingot Mold Stools or Bottom Plates** (Spruce Plates), Iron or Steel (**West Bound only**)	12	15	15	18
350	**Mops.**	22	(7)26½	25	(1)29½
355	**Oil, Castor** (**East Bound only**).	17	20	20	23
360	**Oil, Cottonseed, Crude.**	17	20	20	23
365	**Oil, Creosote** (Dead Oil of Coal Tar or Wood Tar), in tank cars (**West Bound only**).	13	16	16	19
370	**Oil, Linseed,** in barrels and tank cars only (**West bound only**).	13	16	16	19
375	**Ores, viz.:** (**West Bound only**) **Antimony.** **Copper.** **Lead.** **Silver.** **Zinc.** **Zinc Concentrates.** Also **Iron Ore Refuse** (Red Ore).	10	13	13	16
380	**Ore, Spodumene** (**East Bound only**).	8	.....	.....	.....
385	(**East Bound only**) **Ores, Ore Products, viz.:** **Concentrates.** **Iron Sulphides.** **Ore, Antimony.** **Ore, Copper.** **Ore, Lead.** **Ore, Manganese.** **Ore, Silver.** **Ore, Zinc.** **Zinc Concentrates.** **Zinc Oxide** (Crude). (R. A. 1083)	(8)7.6	.....	.....	.....

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

(1)Lines north of Chicago, Ill., receive 7¾ cents per 100 pounds.
(2)Lines north of Chicago, Ill., receive 8½ cents per 100 pounds.
(3)Lines north of Chicago, Ill., receive 7¾ cents per 100 pounds.
(4)Lines north of Chicago, Ill., receive 8.1 cents per 100 pounds.
(5)Lines north of Chicago, Ill., receive 5½ cents per 100 pounds.
(6)Lines north of Chicago, Ill., receive 6¼ cents per 100 pounds.
(7)Lines north of Chicago, Ill., receive 7 cents per 100 pounds.
(8)Applies only from Kansas City, Mo., and points in Kansas City, Mo., Switching Limits to Chicago, and points in Chicago Switching District.

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rater. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
390	(East Bound only) **Anodes.** **Bullion.** **Bullion, Base, Lead or Zinc.** **Copper.** **Copper (Blister).** **Copper Bars.** **Copper, Sulphate of.** **Copper Ingots.** **Copper Matte (Pig or Ingot).** **Copper Residue (Residue or Slag from Copper Ore).** **Lead.** **Lead Dross.** **Lead Bars.** **Lead (Pig).** **Spelter.** In dollars and cents per ton of 2,000 pounds.	①1.90	.....	.....	.....
400	(West Bound only) **Brass Foundry Residue, viz.:** **Brass Ashes.** **Brass Buffings.** **Brass Emery Wheel Grindings.** **Brass Skimmings.** **Brass Sweepings.** **Brass Washings.**	8	11	11	14
405	**Packing House Products,** as described in List No. 3, Rule No. 371 of W. T. L. Circular No. 1-Q, E. B. Boyd's I. C. C. No. A-1385, P. S. C. Mo. No. 272, supplements thereto and reissues thereof. **Packing House Products,** as described in List No. 4, Rule No. 371, of W. T. L. Circular No. 1-Q, E. B. Boyd's I. C. C. No. A-1385, P. S. C. Mo. No. 272, supplements thereto and reissues thereof.	16	19	19	22
410	**Paint (Dry Earth).** **Barytes.** **Ground Iron Ore.** **Common Ground Clay.** **Mortar Color.** **Whiting.** **Yellow Ochre.**	11	14	14	17
415	**Paper and Paper Articles,** as described in Agent E. B. Boyd's Freight Tariff No. 169-A, I. C. C. No. 1347, taking Group A Group B Group C	12 14 17	15 17 20	15 17 20	18 20 23

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

①Applies from Kansas City, Mo.-Kan., and points in Kansas City Switching Limits, also on traffic from points beyond, except origin points shown in Agent E. B. Boyd's Tariff 87 Series, and except from points in Missouri named in Item No. 635 hereof to Chicago and points in Chicago Switching District.

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads, Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
420	**Building and Roofing Materials, viz.:** **Paper,** Building, Roofing or Sheathing. **Felt,** Building and Roofing. **Asbestos, Building** or **Roofing Felt or Paper.** **Roofing, Composition** or **Prepared, viz.:** Burlap, Felt or Paper, saturated with asphalt, pitch, tar or similar materials. **Asbestos Flexible Shingles,** in bundles, boxes or crates. **Asphalt Shingles.** **Expansion Paving Joints** (Asphalt or Asphalt and Limestone Dust, Sand, Cloth or Paper Combined). Straight or mixed carloads, or in mixed carloads with the following: **Asphalt.** **Pitch Roofing.** **Tar,** Coal or Petroleum. **Roofing Coating** (not paint or stain), having asphalt pitch, rosin or tar base. **Cement, Roofing** (Liquid or Solid). **Nails** or **Metal Fasteners** or **Tin Roofing Caps,** weight not to exceed 10% of the weight of the prepared roofing and asphalt shingles contained in the shipment.	11	14	14	17
425	**Paper Matting.**	30	36	33	39
430	**Paper** (Scrap).	11	14	14	17
435	**Phosphate, Tri-Sodium** (West Bound only).	15	18	18	21
440	**Pipe** (Wrought Iron or Steel), **Welded or Seamless, and Boiler Tubes,** straight or mixed C. L.	16	19	19	22
445	**Pipe** (Iron or Steel), **Conduit** (including Enameled or Coated), straight or mixed C. L.	16	19	19	22
450	**Pipe (Cast Iron) and Connections for same,** Also **Pipe, Iron, Cast,** with prepared joints consisting of lead, jute and iron wedges inserted in bell or large end, securely held in place by wood blocks and not projecting beyond end of pipe, straight or mixed C. L.	16	19	19	22
455	**Pipe Connections, Couplings, Fittings, etc., viz.:** **Drive Well Points.** **Iron Pipe Connections.** **Iron Pipe Couplings.** **Iron Pipe Fittings.** **Iron Body Pipe Connections.** **Iron Body Pipe Couplings.** **Iron Body Pipe Fittings.** **Iron Body Valves.** **Valves.** **Valve Springs.** **Water Gates.** **Drill Rods.** **Separators, Oil, Steam and Water.** **Steel Pipe Connections.** **Steel Pipe Couplings.** **Steel Pipe Fittings.** **Iron Body Well Pipe Screens.** **Service Curb or Stop Cock Boxes.** Also **Brass Valves.** **Bronze Valves.** **Brass Pipe Fittings.** **Steam Traps.** **Iron Body Well Strainers.** In mixed C. L. with the foregoing.	16	19	19	22

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
460	**Pitch, Coal Tar,** in bulk in barrels (with or without heads), bags, metal cans, or in cakes, slabs or tank cars. **Tar, Coal** } in barrels or tank cars. **Tar, Petroleum** }	8	11	11	14
465	(West Bound only) **Plaster Board.** **Stucco.** **Plaster (Wall).**	9.4	12	12.4	15
470	**Poles, Iron or Steel (Telegraph, Telephone or Electric Railway).**	18	19	19	22
475	(West Bound only) **Explosives, viz.:** **Powder, Black.** **Powder, Blasting.** **Powder, Brown.** **Powder, Smokeless.**	41	48½	44	51½
480	**Rags.** **Rope (Old),** in pieces not exceeding 30 feet in length. Also **Paper, Scrap,** in mixed carloads with the foregoing.	12	15	15	18
485	**Railway Material, viz.:** Air Brakes. Air Brake Equipment. Arch Bars. Bolster Bearings, Iron or Steel. Bolsters, Car, Iron or Steel. Boxes, Car Journal. Brake Beams, Iron or Steel, Car and Locomotive. Brake Shoes, Car and Locomotive. Brasses, Car and Locomotive. Columns, Water, Locomotive. Car Carline (Roof Supports), Steel. Car Castings. Car Ends, Steel. Car Floors, Steel. Car or Locomotive Axles and Wheels, separate or attached. Car Sides, Steel. Car Sills, Steel. Car Stakes, Steel. Car Trucks and parts of same. Car Underframes, Steel, and parts of same. Cars, Hand. Cars, Track Inspection. Car Truck Bearings, Iron or Steel. Car Truck Frames, Iron or Steel. Castings, Locomotive. Center Plates. Couplers, Car and Locomotive. Coupler Parts, Iron or Steel. Cranes, Mail. Draft Rigging, Car. Drawbars, Steel. Drawheads, Steel. Flanges, Snow. Frogs, Switches and Crossings, Track. Interlocking Apparatus and parts. Links, Iron or Steel. Netting, Locomotive Stack. Pins, Iron or Steel. Pockets, Stake Car, Iron or Steel. Posts, Bumping. Stands, Switch. Switches, Track. Sanders, Locomotive. Springs, Car or Locomotive. Tires, Locomotive. Track Ballast Unloaders. Track Guards, Cattle and Cinder. Turntables.	11	14	14	17

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided) BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
490	**Passenger Equipment** moving on own wheels, including **Passenger Equipment with Electric Motors**, not self-propelled. In dollars and cents per car.	36.00	.....	.....	.....
495	**Freight Equipment** (not self-propelling) moving on wheels. In dollars and cents per car.	18.50	.....	.....	.....
500	**Locomotives, Locomotive Tenders or Locomotives and Tenders** combined, moving on own wheels but not under own power, **Snow Plows**, moving on own wheels, **Cranes (Locomotive)**, moving on own wheels, **Cranes (Wrecking)**, moving on own wheels, **Ballast Spreaders**, moving on own wheels, In dollars and cents per ton of 2,000 pounds.	1.30	1.90	.....	.....
505	**Rails, New, and Cross-ties, Steel.** Also **Second-hand Rails**, mixed with the foregoing articles.	10	13	13	16
510	**Rails, Second-hand**, in straight C. L. Also **Railroad Track Fastenings, Second-hand** (see Item 515 for description of Railroad Track Fastenings), in mixed carloads with the foregoing.	10	13	13	16
515	**Railroad Track Fastenings, viz.:** **Angle Bars.** **Angle Plates.** **Anti-Rail Creeper Fastenings.** **Base Plates.** **Fish Bars.** **Fish Plates.** **Frog Fillers** (Iron or Steel). **Nut-locks.** **Nut Washers.** **Rail Chairs.** **Rail Braces.** **Rail Clips.** **Rail Clip Fastenings.** **Rail Clip Wedges.** **Rail Joints.** **Rail Joint Fillers.** **Rail Joint Splice Bars.** **Rail Joint Washers.** **Screw Spikes.** **Steel Cross-tie Clips.** **Steel Cross-tie Fastenings.** **Steel Cross-tie Wedges.** **Tie Bolts.** **Tie Plates.** **Tie Rods.** **Track Bolts.** **Track Bolt Nuts.** **Track Spikes.** **Welder Bars.**	10	13	13	16
520	**Roof Coating, Asphaltic** (entirely free of **Vegetable Oil**), (**West Bound only**).	13	16	16	19
525	**Salt Cake.**	12	15	15	18
530	**Salts, Epsom (Sulphate of Magnesia).**	15	18	18	21
535	**Sand,** Asbestos (ground or unground), (**West Bound only**).	8	11	11	14
540	**Shade Cloth, Plain, Uncut and Undecorated (West Bound only).**	23	①27½	26	②30½

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

①Lines north of Chicago receive 7¼ cents per 100 pounds.

②Lines north of Chicago receive 8 cents per 100 pounds.

Item No.	COMMODITIES (See Also Items Nos. 2 and 3) Applies Only to Shipments Moving Under Commodity Rates. In Carloads Except as Otherwise Provided	PROPORTIONS IN CENTS PER 100 POUNDS (Except as Otherwise Provided)			
		BETWEEN (Except as Noted)			
		East St. Louis, Alton and East Hannibal, Ill. (See Note 1)		Cairo, Gale and Thebes, Ill. (See Note 2)	
		And Points Shown Below and Points Taking Same Rates			
		Chicago, Ill.	Milwaukee, Wis.	Chicago, Ill.	Milwaukee, Wis.
545	**Shade or Curtain Rollers or Slats** (Window) and **Fixtures** (**West Bound only**).	18	22½	21	25½
550	**Shades, Window,** mounted on rollers, straight carloads or mixed carloads with **Shade Cloth,** plain and undecorated and (or) **Shade** or **Curtain Rollers** or **Slats** (Window) and Fixtures (**West Bound only**).	36	42	39	45
555	**Shot.**	13	16	16	19
560	**Slate, Crushed** (**West Bound only**).	6	.....	.....	.....
565	**Potassium, Nitrate of (Saltpetre),** in straight carloads, or in mixed carloads with **Sodium, Nitrate of (Chili Saltpetre),** (**West Bound only**). In boxes, bags, barrels, casks or kegs.	15	18	18	21
570	**Soda, Silicate of** / **Soda, Caustic** / **Calcium Chloride (Liquid)** in tank cars.	11	14	14	17
575	**Sal-Soda,** in bags, barrels, boxes, drums or pails. **Soda, Silicate of** (dry), in packages or in bulk. **Soda, Silicate of** (other than dry), in barrels, casks, drums or pails. **Soda, Carbonate of, viz.:** ①**Soda Ash.** / **Monohydrate.** / **Sesqui-Carbonate.** In bags, barrels, casks, drums or pails, or in bulk. **Soda, Caustic,** in bulk in bags, barrels, casks, drums or pails or in metal cans in barrels or boxes. **Calcium Chloride** in sold form. ①Will not apply on Washing, Scouring and Cleaning Compounds or Preparations.	11	14	14	17
580	**Soda, Sulphate of (Glauber's Salts).**	12	15	15	18
585	**Starch.**	12	15	15	18
590	**Tile, Drain,** in straight carloads, Also In mixed carloads with **Brick** (except Bath and Enameled), and articles taking same rates.	8	11	11	14
595	**Tile Roofing** (**West Bound only**).	9	12	12	15
600	**Vinegar and Cider,** in bulk in barrels or tank cars.	15	18	18	21
605	**Walnut Veneering** (**East Bound only**) C.L.... / L.C.L...	18 / 30	21 / 36	21 / 33	24 / 39
610	**Wood Pulp** (**West Bound only**).	12	15	15	18
615	**Zinc.**	16	19	19	22
620	**Zinc, Sulphate of.**	13	16	16	19
625	**Zinc Oxide and Lithopone.**	13	16	16	19
630	**Zinc Chloride Solution,** in tank cars.	13	16	16	19

Note 1.—Applies only on traffic to or from points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah (see page 5).

Note 2.—Applies only on traffic to or from points in Oklahoma (see page 5).

Item No. 635

LIST OF MISSOURI STATIONS REFERRED TO IN ITEM No. 1

STATIONS		ROAD
Adams	Mo.	Mo. Pac.
Adrian	Mo.	Mo. Pac.
Akinsville	Mo.	Mo. Pac.
Alba	Mo.	Mo. Pac.
Aldrich	Mo.	K. C. C. & S.
Allenton	Mo.	Mo. Pac. St. L.-S. F.
Alston	Mo.	St. L.-S. F.
Amoret	Mo.	K. C. Sou.
Amos	Mo.	K. C. Sou.
Amsterdam	Mo.	K. C. Sou.
Anaconda	Mo.	St. L.-S. F.
Anderson	Mo.	K. C. Sou.
Appleton City	Mo.	M.-K.-T.
Archie	Mo.	Mo. Pac.
Ardath	Mo.	K. C. Sou.
Argyle	Mo.	C. R. I. & P.
Arlington	Mo.	St. L.-S. F.
Armstrong Quarry	Mo.	K. C. Sou.
Aroma	Mo.	M. & N. A.
Arthur	Mo.	Mo. Pac.
Asbury	Mo.	Mo. Pac. K. C. Sou. St. L.-S. F.
Ash Grove	Mo.	St. L.-S. F.
Athol	Mo.	Mo. Pac.
Augusta	Mo.	M.-K.-T.
Auilville	Mo.	Mo. Pac.
Aurora	Mo.	Mo. Pac. St. L.-S. F.
Aurora Springs	Mo.	Mo. Pac.
Austria	Mo.	St. L.-S. F.
Avery	Mo.	St. L.-S. F.
Avon	Mo.	Mo. Pac.
Badger	Mo.	St. L.-S. F.
Bagnell	Mo.	Mo. Pac.
Barnett	Mo.	C. R. I. & P.
Barretts	Mo.	Mo. Pac.
Bartle's Switch	Mo.	Mo. Pac.
Barton	Mo.	St. L.-S. F.
Battlefield	Mo.	Mo. Pac.
Beaman	Mo.	M.-K.-T.
Beaufort	Mo.	C. R. I. & P.
Belfast	Mo.	St. L.-S. F.
Belle	Mo.	C. R. I. & P.
Belt Jct.	Mo.	St. L.-S. F.
Belton	Mo.	K. C. C. & S. St. L.-S. F.
Belvidere	Mo.	St. L.-S. F.
Benton (St. Louis Co.)	Mo.	Mo. Pac.
Berger	Mo.	Mo. Pac.
Bernheimer	Mo.	M.-K.-T.
Berwick	Mo.	St. L.-S. F.
Billings	Mo.	St. L.-S. F.
Billingsville	Mo.	Mo. Pac.
Binders Spur	Mo.	Mo. Pac.
Black Walnut	Mo.	M.-K.-T.
Blackwater	Mo.	Mo. Pac.
Blairstown	Mo.	St. L.-S. F.
Blanchard	Mo.	St. L.-S. F.
Bland	Mo.	C. R. I. & P.
Blosser	Mo.	Mo. Pac.
Blue Siding	Mo.	K. C. Sou.
Bluffton	Mo.	M.-K.-T.
Boaz	Mo.	St. L.-S. F.
Bois d'Arc	Mo.	St. L.-S. F.
Boles	Mo.	Mo. Pac.
Bolivar	Mo.	St. L.-S. F.
Bonham	Mo.	Mo. Pac.
Bonnot's Mill	Mo.	Mo. Pac.
Boonville	Mo.	Mo. Pac. M.-K.-T.
Boscobel	Mo.	St. L.-S. F.
Boston	Mo.	Mo. Pac.
Boughner	Mo.	M.-K.-T.
Bourbon	Mo.	St. L.-S. F.
Bowen	Mo.	C. R. I. & P.
Brady's Spur	Mo.	Mo. Pac.
Brandon	Mo.	C. R. I. & P.
Branson	Mo.	Mo. Pac.
Brant	Mo.	Mo. Pac.
Bronaugh	Mo.	Mo. Pac.
Brookline	Mo.	St. L.-S. F.
Brownington	Mo.	St. L.-S. F.
Browns	Mo.	Mo. Pac.
Brush Creek	Mo.	St. L.-S. F.
Buckner	Mo.	Mo. Pac.
Bunceton	Mo.	Mo. Pac.
Burton	Mo.	M.-K.-T.
Butler (Bates Co.)	Mo.	Mo. Pac.
Butterfield	Mo.	St. L.-S. F.
Byrd	Mo.	Mo. Pac.
Cagle	Mo.	St. L.-S. F.
Calhoun	Mo.	M.-K.-T.
California	Mo.	Mo. Pac.
Camp Branch	Mo.	M.-K.-T.
Canaan	Mo.	C. R. I. & P.
Carbon Center	Mo.	St. L.-S. F.
Carl Jct.	Mo.	St. L.-S. F.
Carondelet Branch Jct.	Mo.	Mo. Pac.
Carterville	Mo.	Mo. Pac.
Cartersville	Mo.	St. L.-S. F.
Carthage	Mo.	Mo. Pac. St. L.-S. F.
Carthage Jct	Mo.	Mo. Pac.
Carytown	Mo.	Mo. Pac.
Case	Mo.	M.-K.-T.
Cassidy	Mo.	St. L.-S. F.
Castlewood	Mo.	Mo. Pac.
Catawissa	Mo.	St. L.-S. F.
Cave Spring	Mo.	M.-K.-T.
Cecil	Mo.	Mo. Pac.
Centaur	Mo.	C. R. I. & P.
Center Creek	Mo.	Mo. Pac.
Centerview	Mo.	Mo. Pac.
Centertown	Mo.	Mo. Pac.
Central City Spur	Mo.	M.-K.-T.
Centropolis	Mo.	Mo. Pac. St. L.-S. F.
Chester	Mo.	M. & N. A.
Chadwick	Mo.	St. L.-S. F.
Chamois	Mo.	Mo. Pac.
Cherry Valley	Mo.	St. L.-S. F.
Cherry Valley Jct.	Mo.	St. L.-S. F.
Chesterfield Park	Mo.	C. R. I. & P.
Chilhowee	Mo.	M.-K.-T. C. R. I. & P.
Chitwood	Mo.	M.-K.-T.
Chloe	Mo.	St. L.-S. F.
Clapper	Mo.	M.-K.-T.
Clarksburg	Mo.	Mo. Pac.
Claysville	Mo.	M.-K.-T.
Cleveland	Mo.	K. C. Sou.
Clever	Mo.	Mo. Pac.
Cliffwood	Mo.	Mo. Pac.
Clifton City	Mo.	M.-K.-T.
Clifton Heights	Mo.	Mo. Pac.
Clinton	Mo.	M.-K.-T. St. L.-S. F. K. C. C. & S.
Cliquot	Mo.	St. L.-S. F.
Coburg	Mo.	St. L.-S. F.
Coffeyton	Mo.	St. L.-S. F.
Cole Camp	Mo.	Mo. Pac.
Cole Jct.	Mo.	Mo. Pac.
Coleman	Mo.	K. C. C. & S.
Collins	Mo.	K. C. C. & S.
Columbia	Mo.	M.-K.-T.
Concordia	Mo.	Mo. Pac.
Conway	Mo.	St. L.-S. F.
Cooks	Mo.	St. L.-S. F.
Coon Creek	Mo.	St. L.-S. F.
Cooper	Mo.	Mo. Pac.
Cotton's Spur	Mo.	Mo. Pac.
Craig (Crawford Co.)	Mo.	St. L.-S. F.
Crane	Mo.	Mo. Pac.
Creighton	Mo.	K. C. C. & S.
Crescent	Mo.	St. L.-S. F.
Crest	Mo.	C. R. I. & P.
Crisp	Mo.	Mo. Pac.
Crocker	Mo.	St. L.-S. F.
Crooked Creek	Mo.	St. L.-S. F.
Croutch's Spur	Mo.	Mo. Pac.
Cuba	Mo.	St. L.-S. F.
Culdesac	Mo.	M.-K.-T.
Danley	Mo.	St. L.-S. F.
Daugherty	Mo.	K. C. C. & S.
De Camp	Mo.	St. L.-S. F.
Dederick	Mo.	M.-K.-T.
Deepwater	Mo.	K. C. C. & S.
Deerfield	Mo.	M.-K.-T.
Defiance	Mo.	M.-K.-T.
Delmar	Mo.	St. L.-S. F.
Denton	Mo.	C. R. I. & P.
Dewey	Mo.	Mo. Pac.
Diamondville	Mo.	Mo. Pac.
Dillon	Mo.	St. L.-S. F.
Dixon	Mo.	St. L.-S. F.
Dodson	Mo.	Mo. Pac. St. L.-S. F.
Doran	Mo.	Mo. Pac.
Doubling Spur	Mo.	St. L.-S. F.
Doubling Track	Mo.	K. C. Sou.
Dover	Mo.	Mo. Pac.
Dover Coal Track	Mo.	Mo. Pac.
Dow	Mo.	Mo. Pac.
Dozier	Mo.	St. L.-S. F.
Drake	Mo.	Mo. Pac.
Dresden	Mo.	Mo. Pac.
Drexel	Mo.	K. C. Sou.
Duenweg	Mo.	Mo. Pac.
Duenweg Jct.	Mo.	Mo. Pac.
Dumbeck	Mo.	St. L.-S. F.
Dumpville Spur	Mo.	Mo. Pac.
Dundee	Mo.	Mo. Pac.
Dunlop	Mo.	St. L.-S. F.
Dunnegan	Mo.	K. C. C. & S.
Dutzow	Mo.	M.-K.-T.
Earls Spur	Mo.	St. L.-S. F.
East Joplin	Mo.	M.-K.-T. St. L.-S. F.
East Kirkwood	Mo.	Mo. Pac.
East Lynne	Mo.	St. L.-S. F.
Edgecomb	Mo.	St. L.-S. F.
Elayer	Mo.	St. L.-S. F.
Eldon	Mo.	Mo. Pac. C. R. I. & P.
Eldorado Springs	Mo.	M.-K.-T.
Ellendale	Mo.	Mo. Pac.
Eliff Spur	Mo.	K. C. Sou.

Item No. 635—Continued

LIST OF MISSOURI STATIONS REFERRED TO IN ITEM No. 1—Continued

STATIONS	ROAD	STATIONS	ROAD	STATIONS	ROAD
Elliott (Cooper Co.). Mo.	Mo. Pac.	Granby.....Mo.	Mo. Pac. St. L.-S. F.	Hughesville.....Mo.	Mo. Pac.
Elliott (Lawrence Co.) Mo.	St. L.-S. F.			Humansville.....Mo.	K. C. C. & S.
Elliott (Randolph Co.) Mo.	M.-K.-T.	Grand.....Mo.	Mo. Pac.	Hume.....Mo.	St. L.-S. F. K. C. Sou.
Ellis.....Mo.	M.-K.-T.	Grand Falls.....Mo.	Mo. Pac.		
Elma.....Mo.	St. L.-S. F.	Grandview.....Mo.	St. L.-S. F. K. C. Sou.	Huntington.....Mo.	M.-K.-T.
Elm Park.....Mo.	Mo. Pac.			Huntsdale.....Mo.	M.-K.-T.
Elsey.....Mo.	Mo. Pac.	Graydon Springs....Mo.	St. L.-S. F.	Hunts Switch.....Mo.	Mo. Pac.
Elston.....Mo.	Mo. Pac.	Gray's Summit.....Mo.	Mo. Pac.	Hurley.....Mo.	Mo. Pac.
Elwood.....Mo.	St. L.-S. F.	Greenfield.....Mo.	St. L.-S. F.		
Emma.....Mo.	Mo. Pac.	Green Ridge.....Mo.	M.-K.-T.		
Emmet.....Mo.	St. L.-S. F.	Greenwood.....Mo.	Mo. Pac. C. R. I. & P.		
Enon.....Mo.	Mo. Pac.				
Estill.....Mo.	M.-K.-T.	Gretna.....Mo.	Mo. Pac.	Iantha.....Mo.	St. L.-S. F.
Etlah.....Mo.	Mo. Pac.	Grove.....Mo.	Mo. Pac.	Independence.....Mo.	Mo. Pac.
Etterville.....Mo.	C. R. I. & P.	Guinney's Spur.....Mo.	Mo. Pac.	Independent Powder Spur.....Mo.	Mo. Pac.
Eudora.....Mo.	K. C. C. & S.	Gulfton.....Mo.	St. L.-S. F. K. C. Sou.	Ionia.....Mo.	C. R. I. & P.
Eugene.....Mo.	C. R. I. & P.			Irwin.....Mo.	Mo. Pac.
Eureka.....Mo.	St. L.-S. F.	Gumbo.....Mo.	C. R. I. & P.	Isbell.....Mo.	Mo. Pac.
Evansville.....Mo.	M.-K.-T.	Gunn City.....Mo.	M.-K.-T.		
Eve.....Mo.	M.-K.-T. K. C. Sou.	Gunn City Spur.....Mo.	St. L.-S. F.		
Everton.....Mo.	St. L.-S. F.				
Exchange Spur.....Mo.	Mo. Pac.				
Exeter.....Mo.	St. L.-S. F.				
Ewings.....Mo.	Mo. Pac.			J. & G. Jct.....Mo.	St. L.-S. F.
				Jasper.....Mo.	Mo. Pac.
		Hadsell.....Mo.	C. R. I. & P.	Jaudon.....Mo.	K. C. Sou.
		Halberts.....Mo.	St. L.-S. F.	Jefferson City.....Mo.	Mo. Pac. M.-K.-T.
		Halls.....Mo.	Mo. Pac.		
		Hallwood.....Mo.	Mo. Pac.	Jeffreys.....Mo.	St. L.-S. F.
Fair Lawn.....Mo.	St. L.-S. F.	Hamburg.....Mo.	M.-K.-T.	Jeffriesburg.....Mo.	C. R. I. & P.
Fair Play.....Mo.	K. C. C. & S.	Hancock.....Mo.	St. L.-S. F.	Jerome.....Mo.	St. L.-S. F.
Fairview.....Mo.	M. & N. A.	Handley.....Mo.	M.-K.-T.		Mo. Pac.
Fanning.....Mo.	St. L.-S. F.	Hannon.....Mo.	Mo. Pac.	Joplin.....Mo.	St. L.-S. F.
Faulkner.....Mo.	St. L.-S. F.	Harlan.....Mo.	St. L.-S. F.		M.-K.-T.
Fayette.....Mo.	M.-K.-T.	Harold.....Mo.	St. L.-S. F.		K. C. Sou.
Feeley.....Mo.	Mo. Pac.	Harrelson.....Mo.	St. L.-S. F.	Jungs.....Mo.	M.-K.-T.
Fern Glen.....Mo.	Mo. Pac.	Harris.....Mo.	K. C. Sou.		
Flemington.....Mo.	St. L.-S. F.				
Flint Spur.....Mo.	Mo. Pac.	Harrisonville.....Mo.	Mo. Pac. St. L.-S. F. K. C. C. & S. M.-K.-T.		
Forest Mill.....Mo.	Mo. Pac.				
Forsythe Jct.....Mo.	C. R. I. & P.				
Fortuna.....Mo.	Mo. Pac.	Harriston.....Mo.	M.-K.-T.	Kansas City.....Mo.	.....
Franks.....Mo.	St. L.-S. F.	Hartsburg.....Mo.	M.-K.-T.	Kansas City Jct.....Mo.	M.-K.-T.
Fray.....Mo.	Mo. Pac.	Hartwell.....Mo.	K. C. C. & S.	Karlin.....Mo.	St. L.-S. F.
Freeburg.....Mo.	C. R. I. & P.	Harvey.....Mo.	St. L.-S. F.	Keith.....Mo.	St. L.-S. F.
Freeman.....Mo.	M.-K.-T.	Harwood.....Mo.	M.-K.-T.	Kenoma.....Mo.	St. L.-S. F.
		Hassard.....Mo.	M.-K.-T.	Kent.....Mo.	Mo. Pac.
		Hazeltine.....Mo.	St. L.-S. F.	Keyes Summit.....Mo.	St. L.-S. F.
		Heims.....Mo.	Mo. Pac.	Keysville.....Mo.	St. L.-S. F.
Gaffin.....Mo.	Mo. Pac.	Helm.....Mo.	St. L.-S. F.	Kiddo's Spur.....Mo.	St. L.-S. F.
Galena.....Mo	Mo. Pac.	Henley.....Mo.	C. R. I. & P.	Kimpton.....Mo.	K. C. C. & S.
Galesburg.....Mo	Mo. Pac.	Hennekens.....Mo.	C. R. I. & P.	Kingsbury.....Mo.	M.-K.-T.
Galloway.....Mo.	St. L.-S. F.	Hermann.....Mo.	Mo. Pac.	Kingsville.....Mo.	Mo. Pac.
Garber.....Mo.	Mo. Pac.	Higbee.....Mo.	M.-K.-T.	Kirkwood.....Mo.	Mo. Pac.
Garden City.....Mo.	K. C. C. & S.	Higginsville.....Mo.	Mo. Pac.	Klondike.....Mo.	M.-K.-T.
Garnsey.....Mo.	St. L.-S. F.	Highway.....Mo.	St. L.-S. F.	Knights.....Mo.	St. L.-S. F.
Gasconade.....Mo.	Mo. Pac.	Hill Spur.....Mo.	Mo. Pac.	Knobnoster.....Mo.	Mo. Pac.
Gascondy.....Mo.	C. R. I. & P.	Hilltop.....Mo.	Mo. Pac.	Knobview.....Mo.	St. L.-S. F.
Gates.....Mo.	St. L.-S. F.	Hine.....Mo.	C. R. I. & P.	Knoche Jct.....Mo.	St. L.-S. F.
Georgetown.....Mo.	Mo. Pac.	Hirst.....Mo.	Mo. Pac.	Konantz.....Mo.	St. L.-S. F.
Gerald.....Mo.	C. R. I. & P.	Hoberg.....Mo.	Mo. Pac.		
Gerster.....Mo.	St. L.-S. F.	Hodge.....Mo.	Mo. Pac.		
Glencoe.....Mo.	Mo. Pac.	Hoeckers.....Mo.	C. R. I. & P		
Glencoe Jct.....Mo.	Mo. Pac.	Hofflins.....Mo.	St. L.-S. F.		
Glendale.....Mo.	Mo. Pac. St. L.-S. F.	Holden.....Mo.	Mo. Pac. M.-K.-T.	Labadie.....Mo.	Mo. Pac. C. R. I. & P.
Glensted.....Mo.	Mo. Pac.	Holliday.....Mo.	M.-K.-T.	Lackland.....Mo.	C. R. I. & P.
Globe.....Mo.	St. L.-S. F.	Holman.....Mo.	St. L.-S. F.	Ladue.....Mo.	M.-K.-T.
Golden City.....Mo.	St. L.-S. F.	Holmes.....Mo.	St. L.-S. F.	Lake City.....Mo.	Mo. Pac.
Golf.....Mo	Mo. Pac.	Hornaday.....Mo.	St. L.-S. F.	Lake Jct.....Mo.	Mo. Pac.
Goltra.....Mo.	St. L.-S. F.	Horton (Vernon Co.)..Mo.	Mo. Pac.	Lakeside Spur.....Mo.	Mo. Pac.
Goodman.....Mo.	K. C. Sou.	Horton (Bates Co.)...Mo	K. C. Sou.	Lamar.....Mo.	Mo. Pac. St. L.-S. F
Goodman's Spur.....Mo.	Mo. Pac	Houstonia.....Mo.	Mo. Pac		
Gore.....Mo.	M.-K.-T.	Howards.....Mo.	Mo. Pac.	Lambert.....Mo.	St. L.-S. F
Goss.....Mo.	M.-K.-T.	Howes.....Mo.	St. L.-S. F.	Lamine.....Mo.	Mo. Pac.
Gowdy.....Mo.	Mo. Pac.	Huber.....Mo.	Mo. Pac.	Lamonte.....Mo	Mo Pac.

Item No. 635—Continued

LIST OF MISSOURI STATIONS REFERRED TO IN ITEM No. 1—Continued

STATIONS	ROAD
Lanagan....Mo.	K. C. Sou.
Langston....Mo.	St. L.-S. F.
La Russell....Mo.	Mo. Pac.
Last Chance....Mo.	St. L.-S. F.
Latour....Mo.	St. L.-S. F.
Leasburg....Mo.	St. L.-S. F.
Lebanon....Mo.	St. L.-S. F.
Lee's....Mo.	St. L.-S. F.
Leeds....Mo.	Mo. Pac. St. L.-S. F. K. C. Sou.
Leed's Jct....Mo.	St. L.-S. F.
Lee's Summit....Mo.	Mo. Pac.
Leeton....Mo.	M.-K.-T. C. R. I. & P.
Leslie....Mo.	C. R. I. & P.
Levasy....Mo.	Mo. Pac.
Levy....Mo	St. L.-S. F.
Lewis....Mo	M.-K.-T.
Lexington....Mo	Mo. Pac.
Liberal....Mo.	Mo. Pac. St. L.-S. F.
Liberty St....Mo.	Mo Pac.
Lime Kiln Spur....Mo.	Mo. Pac.
Limirick....Mo.	M.-K.-T.
Lincoln....Mo.	Mo. Pac.
Lisle....Mo.	K. C. Sou.
Little Blue....Mo.	Mo. Pac.
Lloyds....Mo.	M.-K.-T.
Lockwood....Mo.	St. L.-S. F.
Logan....Mo.	St. L.-S. F.
Lohman....Mo.	Mo. Pac.
Lone Tree....Mo.	Mo. Pac.
Long Siding....Mo.	M.-K.-T.
Lowry City....Mo.	St. L.-S. F. K. C. C. & S.
Lupus....Mo	Mo. Pac.
M. K. & T. Jct....Mo	M.-K.-T.
Macy....Mo.	St. L.-S. F.
Madge....Mo.	K. C. Sou.
Madison....Mo.	M.-K.-T.
Magnolia....Mo.	M.-K.-T.
Malcomb....Mo.	Mo. Pac.
Malta Bend....Mo.	Mo. Pac.
Manchester....Mo.	K. C. Sou.
Manning....Mo.	St. L.-S. F.
Mansur....Mo.	St. L.-S. F.
Maplewood....Mo.	Mo. Pac.
Marais Croche....Mo.	M.-K.-T.
Marblehead....Mo.	St. L.-S. F.
Marion....Mo.	Mo. Pac.
Marionville....Mo.	St. L.-S. F.
Marshall....Mo.	Mo. Pac.
Marshall Jct....Mo.	Mo. Pac.
Marshfield....Mo.	St. L.-S. F.
Marthasville....Mo.	M.-K.-T.
Martin City....Mo.	Mo. Pac.
Marvin....Mo.	C. R. I. & P.
Maryland Heights....Mo.	C. R. I. & P.
Matson....Mo.	M.-K.-T.
Maurine....Mo.	St. L.-S. F.
Maywood....Mo.	Mo. Pac.
McBaine....Mo.	M.-K.-T.
McCracken....Mo.	St. L.-S. F.
McDonald....Mo.	M.-K.-T.
McElhany....Mo.	K. C. Sou.
McGirks....Mo.	Mo. Pac.
McKinney....Mo.	Mo. Pac.
McKittrick....Mo.	M.-K.-T.
McRoberts....Mo.	St. L.-S. F.
Medford....Mo.	C. R. I & P.
Melugin....Mo.	Mo. Pac.
Melva....Mo.	Mo. Pac.
Melville....Mo.	St. L.-S. F.
Mentor....Mo.	Mo. Pac.
Meramec Highlands....Mo.	St. L.-S F.
Merwin....Mo.	K. C. Sou.
Meta....Mo.	C. R. I. & P.
Metz....Mo.	Mo. Pac.
Midas....Mo.	Mo. Pac.
Midway....Mo.	Mo. Pac.
Mikkelson....Mo.	St. L.-S. F.
Miller....Mo	St. L.-S. F.
Miller Bros....Mo.	K. C. Sou.
Millers....Mo.	M.-K.-T.
Mills Spur....Mo.	St. L.-S. F.
Milo....Mo.	Mo. Pac.
Mincke....Mo.	St. L.-S. F.
Minden....Mo.	Mo. Pac. St. L.-S. F.
Moberly....Mo.	M.-K.-T.
Mokane....Mo.	M.-K.-T.
Monarch....Mo.	C. R. I. & P.
Monett....Mo.	St. L.-S. F.
Monroe....Mo.	M.-K.-T.
Monteith Jct....Mo.	Mo. Pac.
Montrose....Mo.	M.-K.-T.
Montserrat....Mo.	Mo. Pac.
Mora....Mo.	Mo. Pac.
Moreau....Mo.	Mo. Pac.
Morrison....Mo.	Mo. Pac.
Morrisville....Mo.	St. L.-S. F.
Moselle....Mo.	St. L.-S. F.
Mound City Gravel..Mo.	St. L.-S. F.
Moundsville....Mo.	Mo. Pac.
Mt. Vernon....Mo.	St. L.-S. F.
Mt. Washington....Mo.	Mo. Pac.
Mulberry....Mo.	K. C. Sou.
Myrick....Mo.	Mo. Pac.
Napoleon....Mo.	Mo. Pac.
Naptonville....Mo.	Mo. Pac.
Nassau Jct....Mo.	Mo. Pac.
Nay....Mo.	C. R. I. & P.
Neck City....Mo.	Mo. Pac.
Nelson....Mo.	Mo. Pac.
Neosho....Mo.	St. L.-S. F. K. C. Sou.
Nevada....Mo.	Mo. Pac. M.-K.-T.
Newburg....Mo.	St. L.-S. F.
New Franklin....Mo.	M.-K.-T.
New Haven....Mo.	Mo. Pac.
New Home....Mo.	St. L.-S. F.
Niangua....Mo.	St. L.-S. F.
Nichols....Mo.	St. L.-S. F.
Niles....Mo.	St. L.-S. F.
Nine Wonders....Mo.	M.-K.-T.
Noel....Mo.	K. C. Sou.
Nogo....Mo.	St. L.-S. F.
North Jefferson....Mo.	M.-K.-T.
Northrup....Mo.	Mo. Pac.
Norths....Mo.	K. C. C. & S.
Northview....Mo.	St. L.-S. F.
Nyhart....Mo.	Mo Pac.
Oakland....Mo.	Mo. Pac. St. L.-S F.
Olean....Mo.	Mo. Pac.
Olinger....Mo.	St. L.-S. F.
Olivette....Mo.	C. R. I. & P.
Opal....Mo.	Mo. Pac.
Orchard's Spur....Mo.	St. L.-S. F.
Ore....Mo.	Mo. Pac.
Oronogo....Mo.	Mo. Pac. St. L.-S. F.
Oronogo Jct....Mo.	St. L.-S. F.
Osage....Mo.	Mo. Pac.
Osceola....Mo.	C. R. I. & P. K. C. C. & S.
Oskaloosa....Mo.	K. C. Sou.
Otterville....Mo.	Mo. Pac.
Overton....Mo.	Mo. Pac.
Ovid....Mo.	Mo. Pac.
Owensville....Mo.	C. R. I. & P.
Ozark....Mo.	St. L.-S. F.
Pacific....Mo.	Mo. Pac. St. L.-S. F.
Page City....Mo.	Mo. Pac.
Panama....Mo.	Mo. Pac.
Paris....Mo.	M.-K.-T.
Passaic....Mo.	Mo. Pac.
Pearl....Mo.	St. L.-S. F.
Pearson's Spur....Mo.	M.-K.-T.
Peculiar....Mo.	St. L.-S. F.
Peers....Mo.	M.-K.-T.
Peirce City....Mo.	St. L.-S. F.
Pennsboro....Mo.	St. L.-S. F.
Perry....Mo.	St. L.-S. F.
Petersburg....Mo.	Mo. Pac.
Phenix....Mo.	K. C. C. & S.
Phillipsburg....Mo.	St. L.-S. F.
Pilgrim....Mo.	St. L.-S. F.
Pilot Grove....Mo.	M.-K.-T.
Pine Top....Mo.	Mo. Pac.
Pisgah....Mo.	St. L.-S. F.
Pixleys....Mo.	Mo. Pac.
Pleasant Green....Mo.	M.-K.-T.
Pleasant Hill....Mo.	Mo. Pac. C. R. I. & P.
Portage....Mo.	Mo. Pac.
Portland....Mo.	M.-K.-T.
Porto Rico....Mo.	Mo. Pac.
Post Oak....Mo.	M.-K.-T. C. R. I. & P.
Powell....Mo.	K. C. Sou.
Prairie Lick....Mo.	M.-K.-T.
Prettyman....Mo.	M.-K.-T.
Prosperity....Mo.	Mo. Pac.
Providence....Mo.	M.-K.-T.
Purcell....Mo.	Mo. Pac.
Purdon....Mo.	St. L.-S. F.
Purdy....Mo.	St. L.-S. F.
Quarry Track....Mo.	K. C. Sou.
Quick City....Mo.	St. L.-S. F.
Quinn....Mo.	St. L.-S. F.
Racine....Mo.	St. L.-S. F.
Ranken....Mo.	St. L.-S. F.
Raymond....Mo.	Mo. Pac.
Raymore....Mo.	K. C. C. & S.
Raytown....Mo.	C. R. I. & P.
Red Bridge....Mo.	Mo. Pac.

LIST OF MISSOURI STATIONS REFERRED TO IN ITEM No. 1—Concluded

STATIONS		ROAD
Red Plant	Mo.	St. L.-S. F.
Reeds	Mo.	St. L.-S. F.
Reeds Springs	Mo.	Mo. Pac.
Rensalier	Mo.	M.-K.-T.
Republic	Mo.	St. L.-S. F.
Rex	Mo.	K. C. Sou.
Rhineland	Mo.	M.-K.-T.
Rhodes Spur	Mo.	St. L.-S. F.
Richards	Mo.	Mo. Pac. K. C. Sou.
Rich Hill	Mo.	Mo. Pac. St. L.-S. F.
Richland	Mo.	St. L.-S. F.
Ridge Farm	Mo.	Mo. Pac.
Ridgley	Mo.	M. & N. A.
Rinehart	Mo.	Mo. Pac.
Ritchey	Mo.	St. L.-S. F.
Ritters	Mo.	St. L.-S. F.
Robertsville	Mo.	St. L.-S. F.
Rocheport	Mo.	M.-K.-T.
Rock Creek	Mo.	Mo. Pac.
Rock Quarry	Mo.	K. C. Sou.
Rockville	Mo.	M.-K.-T.
Rolla	Mo.	St. L.-S. F.
Rosebud	Mo.	C. R. I. & P.
Roschill	Mo.	Mo. Pac.
Roswell	Mo.	St. L.-S. F.
Russell (Howard Co.)	Mo.	M.-K.-T.
Russell (Laclede Co.)	Mo.	St. L.-S. F.
Russellville	Mo.	Mo. Pac.
Ruth	Mo.	Mo. Pac.
Rutland	Mo.	M.-K.-T.
Saginaw	Mo.	K. C. Sou.
Salem	Mo.	St. L.-S. F.
Sampson	Mo.	St. L.-S. F.
Sandy Hook	Mo.	Mo. Pac.
Sankey	Mo.	St. L.-S. F.
Sarcoxie	Mo.	St. L.-S. F.
Schell City	Mo.	M.-K.-T.
Schlicht	Mo.	St. L.-S. F.
School	Mo.	St. L.-S. F.
Schuyler	Mo.	Mo. Pac.
Scotland	Mo.	Mo. Pac.
Scott	Mo.	Mo. Pac.
Scruggs	Mo.	Mo. Pac.
Sedalia	Mo.	Mo. Pac. M.-K.-T.
Seligman	Mo.	M. & N. A. St. L.-S. F.
Seneca	Mo.	St. L.-S. F.
Sheffield	Mo.	Mo. Pac. St. L.-S. F. K. C. Sou.
Sheldon	Mo.	Mo. Pac.
Sherman	Mo.	Mo. Pac.
Skinner's Spur	Mo.	St. L.-S. F.
Sleeper	Mo.	St. L.-S. F.
Sligo	Mo.	St. L.-S. F.
Sloans Spur	Mo.	Mo. Pac.
Smith Creek Siding	Mo.	M.-K.-T.
Smithfield	Mo.	St. L.-S. F.
Smithton	Mo.	Mo. Pac.
South Greenfield	Mo.	St. L.-S. F.
South Kirkwood	Mo.	St. L.-S. F.
South Lee	Mo.	C. R. I. & P.
South Point	Mo.	Mo. Pac.
South Webster	Mo.	St. L.-S. F.
Southwest City	Mo.	St. L.-S. F.
Southwestern Jct	Mo.	St. L.-S. F.
Sparta	Mo.	St. L.-S. F.
Speed	Mo.	Mo. Pac.
Sprague	Mo.	St. L.-S. F.
Springfield	Mo.	Mo. Pac. St. L.-S. F.
Spring Fork	Mo.	Mo. Pac.
Stanhope	Mo.	Mo. Pac.
Stanton	Mo.	St. L.-S. F.
St. Albans	Mo.	C. R. I. & P.
St. Aubert	Mo.	Mo. Pac.
St. Clair	Mo.	St. L.-S. F.
St. James	Mo.	St. L.-S. F.
St. John	Mo.	St. L.-S. F.
St. Joseph	Mo.	.....
Steedman	Mo.	M.-K.-T.
Steelville	Mo.	St. L.-S. F.
Stockey	Mo.	Mo. Pac.
Stone Quarries	Mo.	Mo. Pac.
Stotesbury	Mo.	K. C. Sou.
Stotts City	Mo.	Mo. Pac.
Stoutland	Mo.	St. L.-S. F.
Stoutsville	Mo.	M.-K.-T.
Stover	Mo.	C. R. I. & P.
Strafford	Mo.	St. L.-S. F.
Strasburg	Mo.	Mo. Pac.
Sugar Creek	Mo.	A. T. & S. F
Sullivan	Mo.	St. L.-S. F.
Summerfield	Mo.	C. R. I. & P.
Summit Spur	Mo.	Mo. Pac.
Sutherland	Mo.	M.-K.-T.
Sutton	Mo.	Mo. Pac.
Swarts	Mo.	K. C. Sou.
Swedeborg	Mo.	St. L.-S. F.
Sweeney	Mo.	M.-K.-T.
Sweet Springs	Mo.	Mo. Pac.
Swope Park	Mo.	St. L.-S. F.
Sylvester	Mo.	St. L.-S. F.
Syracuse	Mo.	Mo. Pac.
Talbott	Mo.	M.-K.-T.
Tebbetts	Mo.	M.-K.-T.
Terrace	Mo.	Mo. Pac.
Texas Jct	Mo.	M.-K.-T.
Thoms	Mo.	St. L.-S. F.
Tipton	Mo.	Mo. Pac.
Tipton Ford	Mo.	K. C. Sou.
Treloar	Mo.	M.-K.-T.
Tuckahoe	Mo.	St. L.-S. F.
Turkey Creek	Mo.	St. L.-S. F.
Turner	Mo.	M.-K.-T.
Tuxedo Park	Mo.	Mo. Pac.
Tyson	Mo.	St. L.-S. F.
Una	Mo.	St. L.-S. F.
Union	Mo.	C. R. I. & P.
Urich	Mo.	K. C. C. & S.
U. S. Fish Hatchery	Mo.	K. C. Sou.
Valda	Mo.	Mo. Pac.
Vale	Mo.	C. R. I. & P.
Valley Park	Mo.	St. L.-S. F.
Vermont	Mo.	Mo. Pac.
Verona	Mo.	St. L.-S. F.
Versailles	Mo.	Mo. Pac. C. R. I. & P.
Victor	Mo.	St. L.-S. F.
Vigus	Mo.	C. R. I. & P.
Villa Ridge	Mo.	C. R. I. & P.
Vista	Mo.	K. C. C. & S.
Vivian	Mo.	St. L.-S. F.
Von Schraders	Mo.	Mo. Pac.
Waco	Mo.	St. L.-S. F.
Wainwright	Mo.	M.-K.-T.
Wales	Mo.	Mo. Pac.
Walkers	Mo.	M.-K.-T.
Walnut Grove	Mo.	C. R. I. & P. K. C. C. & S.
Warrensburg	Mo.	Mo. Pac.
Warsaw	Mo.	Mo. Pac.
Washburn	Mo.	St. L.-S. F.
Washington	Mo.	Mo. Pac.
Waterloo	Mo.	Mo. Pac.
Waverly	Mo.	Mo. Pac.
Wayne	Mo.	M. & N. A.
Weaubleau	Mo.	St. L.-S. F.
Webb City	Mo.	Mo. Pac. St. L.-S. F.
Webster	Mo.	M.-K.-T.
Webster Groves	Mo.	Mo. Pac. St. L.-S. F.
Weldon Springs	Mo.	M.-K.-T.
Wellington	Mo.	Mo. Pac.
Wentworth	Mo.	St. L.-S. F.
West Bolton	Mo.	K. C. Sou.
West Joplin	Mo.	St. L.-S. F.
West Line	Mo.	M.-K.-T. K. C. Sou.
Wheaton	Mo.	M. & N. A.
White's Spur	Mo.	St. L.-S. F.
Willard	Mo.	St. L.-S. F.
Willey's Coal Spur	Mo.	K. C. Sou.
William's Switch	Mo.	Mo. Pac.
Wilson	Mo.	M.-K.-T.
Wilton	Mo.	M.-K.-T.
Wilton Springs	Mo.	Mo. Pac.
Wimmer	Mo.	St. L.-S. F.
Winchell	Mo.	K. C. C. & S.
Windsor	Mo.	M.-K.-T. C. R. I. & P.
Windsor Springs	Mo.	St. L.-S. F.
Wingate	Mo.	C. R. I. & P.
Winkler	Mo.	St. L.-S. F.
Winton	Mo.	Mo. Pac.
Wishart	Mo.	St. L.-S. F.
Woodlawn	Mo.	Mo. Pac.
Woodruff	Mo.	St. L.-S. F.
Woods	Mo.	St. L.-S. F.
Wooldridge	Mo.	Mo. Pac.
Worland	Mo.	Mo. Pac. K. C. Sou.
Wye Spur	Mo.	St. L.-S. F.
Yeatman	Mo.	Mo. Pac.

Item No. 640

SUBDIVISION OF MILWAUKEE DIVISIONS

The lines north and south of Chicago will subdivide Milwaukee divisions on the basis of the following percentage proportions of the **Milwaukee-East St. Louis-Alton-East Hannibal divisions** shown herein, except as otherwise provided in specific items.

ON TRAFFIC COVERED BY THIS DIVISION SHEET		PERCENTAGES FOR SUBDIVIDING	
BETWEEN	VIA CHICAGO AND	Line North of Chicago	Line South of Chicago
Milwaukee and points taking same divisions	C. M. & St. P., C. & N. W. and M. St. P. & S. S. M. Rys	25% of Milwaukee-E. St. Louis proportions	Balance.
Other points taking Milwaukee divisions outside of the Milwaukee Group Territory	C. M. & St. P. and C. & N. W. Rys.	Subdivisions on this traffic covered by individual arrangements of lines interested north and south of Chicago.	
Milwaukee and points taking same divisions	Via East Joliet and Joliet, Ill., and E. J. & E. Ry	Subdivisions on this traffic covered by individual arrangements of lines interested north and south of Chicago junctions.	

Item No. 645

LIST OF STATIONS IN "MILWAUKEE DIVISIONAL GROUP" TERRITORY

See also Item 650

STATIONS	ROAD	STATIONS	ROAD	STATIONS	ROAD
Altenheim Ill.	M.St.P.& S.S.M.	Camp McDonald Ill.	M.St.P.& S.S.M.	Elmhurst Ill.	C.& N.W.
Antioch Ill.	M.St.P.& S.S.M.	Carrollville Wis.	C.& N.W.	Emerson Street Ill.	C.& N.W.
Aptakisic Ill.	M.St.P.& S.S.M.	Cary Ill.	C.& N.W.	Evanston Ill.	C.& N.W. C.M.& St.P.
Argyle Park Ill.	C.M.& St.P.	Central Street (Evanston) Ill.	C.& N.W.	Everett Ill.	C.M.& St.P.
Arlington Heights Ill.	C.& N.W.	Chestnut Street Wis.	C.M.& St.P.		
Aurora Ill.	E.J.& E.	Chicago Highlands Ill.	C.& N.W.	Fairview Ill.	M.St.P.& S.S.M.
Avondale Ill.	C.& N.W.	Chicory Switch Wis.	C.& N.W.	Feehanville Ill.	C.& N.W. M.St.P.& S.S.M.
Avenue Ill.	C.& N.W.	Colgate Wis.	M.St.P.& S.S.M.	Forest Glen Ill.	C.M.& St.P.
		Corliss Wis.	C.M.& St.P.	Forest Home (Harlem Jct.) Ill.	M.St.P.& S.S.M.
Barrington Ill.	C.& N.W. E.J.& E.	County Line Wis.	C.& N.W.	Franklin Park Ill.	C.M.& St.P. M.St.P.& S.S.M.
Bartlett Ill.	C.M.& St.P.	Cragin (Chicago) Ill.	C.& N.W.	Franksville Wis.	C.M.& St.P.
Bay View Wis.	C.& N.W. C.M.& St.P.	Cragin Ill.	C.M.& St.P.		
Beach Ill.	C.& N.W.	Crawford Avenue Ill.	C.& N.W	Galewood Ill.	C.M.& St.P.
Beecher St. (Milwaukee) Wis.	C.& N.W.	Cuba Ill.	C.& N.W.	Gatliff Wis.	C.M.& St.P.
Bensenville Ill.	C.M.& St.P.	Cudahy Wis.	C.& N.W.	Geneva Ill.	C.& N.W.
Berryville Wis.	C.& N.W.	Dempster Street Ill.	C.M.& St.P.	Glencoe Ill.	C.& N.W.
Bristol Wis.	C.& N.W.	Des Plaines Ill.	C.& N.W. M.St.P.& S.S.M.	Glendon Park Ill.	C.M.& St.P.
Brookfield Ill.	C.M.& St.P.	Deerfield Ill.	C.M.& St.P.	Glen Ellyn Ill.	C.& N.W.
Buena Park Ill.	C.M.& St.P.	Dover Wis.	C.M.& St.P.	Glenview Ill.	C.M.& St.P.
Burlington Wis.	C.M.& St.P. M.St.P.& S.S.M.	Dunning Ill.	C.M.& St.P.	Golf Ill.	C.M.& St.P.
		Duplainville Wis.	C.M.& St.P. M.St.P.& S.S.M.	Granville Wis.	C.& N.W. C.M.& St.P.
		Edgebrook Ill.	C.M.& St.P.	Grayland Ill.	C.M.& St.P.
Caledonia Wis.	C.M.& St.P.	Edgewater Ill.	C.M.& St.P.	Gray's Lake Ill.	C.M.& St.P. M.St.P.& S.S.M.
Calhoun Wis.	C.& N.W.	Edison Park Ill.	C.& N.W.	Greenwood Street Ill.	C.& N.W.
Calvary Ill.	C.& N.W. C.M.& St.P.	Elgin Ill.	C.& N.W. C.M.& St.P.	Gurnee Ill.	C.M.& St.P.
Camp Lake Wis.	M.St.P.& S.S.M.	Elm Grove Wis.	C.M.& St.P.		

(Continued)

Item No. 645—Concluded

LIST OF STATIONS IN "MILWAUKEE DIVISIONAL GROUP" TERRITORY—Concluded

See also Item No. 650

STATIONS	ROAD	STATIONS	ROAD	STATIONS	ROAD
Hadfield....Ill.	M.St.P.& S.S.M.			St. Charles....Ill.	C.& N.W.
Hammond's....Ill.	C.M.& St.P.	Milwaukee....Wis.	C.& N.W. C.M.& St.P. M.St.P.& S.S.M.	St. Francis....Wis.	C.& N.W.
Hanson's Park....Ill.	C.M.& St.P.			Shermerville....Ill.	C.M.& St.P.
Hayes....Ill.	C.& N.W.	Mont Clair....Ill.	C.M.& St.P.	Silver Lake....Wis.	M.St.P.& S.S.M.
Hermosa....Ill.	C.M.& St.P.	Mount Prospect....Ill.	C.& N.W.	Silver Springs....Wis.	C.& N.W.
Highland Park....Ill.	C.& N.W.	Morton Grove....Ill.	C.M.& St.P.	Somers....Wis.	C.M.& St.P.
Highwood....Ill.	C.& N.W.	Mukwanago....Wis.	M.St.P.& S.S.M.	South Milwaukee..Wis.	C.& N.W.
Honey Creek....Wis.	M.St.P.& S.S.M.			Spaulding....Ill.	C.M.& St.P. E.J.& E.
Hubbard Woods....Ill.	C.& N.W.				
Huntington Avenue..Ill.	C.& N.W.	North Avenue....Wis.	C.M.& St.P.	Stowell....Wis.	C.& N.W. C.M.& St.P.
		North Burlington...Ill.	M.St.P.& S.S.M.		
		North Chicago....Ill.	C.& N.W.	Summerdale....Ill.	C.& N.W.
Irving Park....Ill.	C.& N.W.	North Edgewater...Ill.	C.M.& St.P.	Sylvania....Wis.	C.M.& St.P.
Itasca....Ill.	C.M.& St.P.	North Milwaukee..Wis.	C.M.& St.P.		
Ives....Wis.	C.& N.W.	Norwood Park....Ill.	C.& N.W.		
		Noyes Street....Ill.	C.M.& St.P.	Taylors Lake....Ill.	M.St.P.& S.S.M.
				Templeton....Wis.	C.M.& St.P. M.St.P.& S.S.M.
Jefferson Park....Ill.	C.& N.W.				
		Oak Park....Ill.	C.& N.W.	Trevor....Wis.	M.St.P.& S.S.M.
		Oakwood....Wis.	C.M.& St.P.	Truesdale....Wis.	C.M.& St.P.
Kammer'sStockSpurWis.	M.St.P.& S.S.M.	Ontarioville....Ill.	C.M.& St.P.		
Kansasville....Wis.	C.M.& St.P.	Orchard Place....Ill.	M.St.P.& S.S.M.		
Kenilworth....Ill.	C.& N.W.			Union Grove....Wis.	C.M.& St.P.
Kenmore....Ill.	C.& N.W.				
Kenosha....Wis.	C.& N.W.	Palatine....Ill.	C.& N.W.		
Kolze....Ill.	M.St.P.& S.S.M.	Park Ridge....Ill.	C.& N.W.	Vernon....Wis.	M.St.P.& S.S.M
		Peterson Avenue....Ill.	C.& N.W.		
		Pleasant Prairie...Wis.	C.& N.W.		
Lake....Wis.	C.M.& St.P.	Prairie View....Ill.	M.St.P.& S.S.M.	Wadsworth....Ill.	C.M.& St.P.
Lake Beulah....Wis.	M.St.P.& S.S.M.	Proviso....Ill.	C.& N.W.	Warrenton....Ill.	C.M.& St.P.
Lake Bluff....Ill.	C.& N.W.			Wauwatosa....Wis.	C.M.& St.P.
Lake Forest....Ill.	C.& N.W.			Waukegan....Ill.	C.& N.W. E.J.& E.
Lake Villa....Ill.	M.St.P.& S.S.M.	Racine....Wis.	C.& N.W. C.M.& St.P.		C.& N.W.
Lannon....Wis.	C.M.& St.P.				
Layton Park....Wis.	C.& N.W.	Racine Jct....Wis.	C.& N.W. C.M.& St.P.	Waukesha....Wis.	C.M.& St.P. M.St.P.& S.S.M.
Leithton....Ill.	M.St.P.& S.S.M.				
Libertyville....Ill.	C.M.& St.P.	Ranney....Wis.	C.M.& St.P.	Wayne....Ill.	C.& N.W.
Lindwerm....Wis.	C.& N.W.	Ravenswood....Ill.	C.& N.W.	Weber....Ill.	C.& N.W.
Loon Lake....Ill.	M.St.P.& S.S.M.	Ravinia....Ill.	C.& N.W.	West Allis....Wis.	C.& N.W. C.M.& St.P.
Lombard....Ill.	C.& N.W.	Rhodes....Ill.	M.St.P.& S.S.M.		
L. S. Junction....Wis.	C.& N.W.	River Forest....Ill.	C.& N.W. M.St.P.& S.S.M.	West Chicago (Turner)....Ill.	C.& N.W.
		River Grove....Ill.	C.M.& St.P.	Wheatland....Wis.	M.St.P.& S.S.M.
Main Street (Evanston)....Ill.	C.& N.W. C.M.& St.P.	River View....Ill.	M.St.P.& S.S.M.	Wheaton....Ill.	C.& N.W.
		Rockefeller....Ill.	M.St.P.& S.S.M.	Wheeling....Ill.	M.St.P.& S.S.M.
Mannheim....Ill.	C.M.& St.P.	Rogers Park....Ill.	C.& N.W. C.M.& St.P.	Wilmette....Ill.	C.& N.W.
Maplewood....Ill.	C.& N.W.			Winfield....Ill.	C.& N.W.
Mayfair....Ill.	C.& N.W. C.M.& St.P.	Rollins....Ill.	M.St.P.& S.S.M.	Winnetka....Ill.	C.& N.W.
		Rondout....Ill.	C.M.& St.P. E.J & E.	Winthrop Harbor...Ill.	C.& N.W.
Maywood....Ill.	C.& N.W.			Wooddale....Ill.	C.M.& St.P.
Meacham....Ill.	C.M.& St.P.	Roselle....Ill.	C.M.& St.P.	Woodworth....Wis.	C.& N.W.
Melody Siding....Ill.	C.M.& St.P.	Rosehill....Ill.	C.& N.W.		
Melrose Park....Ill.	C.& N.W.	Rugby Jct....Wis.	M.St.P.& S.S.M.		
Menomonee Falls..Wis.	C.M.& St.P.	Russell....Ill.	C.M.& St.P.	Zion City....Ill.	C & N.W.

Item No. 650

OTHER STATIONS TAKING MILWAUKEE DIVISIONS OR ARBITRARIES HIGHER

For list of other points taking Milwaukee divisions or arbitraries higher, see C. & N. W. G. F. D. No. 9593, C. M. & St. P. G. F. D. No. 46405, M. St. P. & S. S. M. Ry. G. F. D. No. 26339, supplements thereto or reissues thereof.

Item No. 655

①PROPORTIONS ON POTATOES FROM STATIONS ON THE G. B. & W. R. R. AND M. ST. P. & S. S. M. RY.

In the division of through rates on Potatoes, C. L., to points in Arkansas, the above roads will be allowed to Chicago the following arbitraries out of the proportion accruing to the lines north of East St. Louis, Cairo, etc., from stations on those roads from which through rates are published on basis of Texas common points differentials or less:

From M. St. P. & S. S. M. Ry. stations, Fremont to Plover, inclusive.....
From M. St. P. & S. S. M. Ry. stations, Junction City to Somerset, inclusive; Eau Claire, Portage Branch south of Plover and Greenwood Branch stations.....
From stations on the G. B. & W. R. R.....
} 16.5 cents per 100 lbs.

①For proportions on Potatoes, destined to points in Oklahoma, see Item No. 5 herein.

Extract from memorandum showing

BASIS ON WHICH DIVISIONS PUBLISHED IN ILLINOIS FREIGHT COMMITTEE DIVISION SHEET NO. 3-C WERE ARRIVED AT.

Distributed by Mr. C. W. Galligan, Chairman, Illinois Freight Association to interested carriers August 1st, 1923.

-A-

Between Chicago and points taking same rates and points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Oklahoma and Utah.

Applicable only when class rates are assessed.

Via E. St. Louis, E. Hannibal and Alton, publish arbitrary proportions for lines east thereof on each class based on 47.5% of the current Chicago-Kansas City, Mo. rates, first deducting River Transfer on classes one to four inclusive 8 cents per 100 pounds and on classes fifth to "E" inclusive, 3 cents per 100 pounds. The arbitrary proportions East of E. St. Louis, E. Hannibal and Alton on above oasis are as follows:

Classes	1	2	3	4	5	A	B	C	D	E
Proportions	54	43	29	19	18	22	18	14	12	10

	Short line mileage	Route	Rate	Sou. Ry. to E. St. L.	Beyond
Salina, Kans.....	526	C., R. I. & P....	L-480	51.7	428.3
		.....	F-424	51.7	372.3
		A., T. & S. F....	505	51.7	453.3
		Mo. Pac.....	505	51.7	453.3
		U. P.....	505	51.7	453.3
Springfield, Mo.....	258	Frisco	309	51.7	257.3
		Mo. Pac.....	309	51.7	257.3
Sedalia, Mo.....	245	M., K. & T.....	L-298	51.7	246.3
		.....	F-291	51.7	239.3
		Mo. Pac.....	L-298	51.7	246.3
		.....	F-291	51.7	239.3

L—Lump Coal.
F—Fine Coal.

Authority for Rates: Southern Railway I. C. C. C-2060.

Commerce Dept., Southern Ry. System, File C-5021. 9-21-25. fhb.

(Here follows Exhibit No. 70, marked side folio pages 1242-1270, inc.)

[fol. 1271] EXHIBIT No. 71

Statement Showing Handling of Merchandise from Chicago, Milwaukee, and Vicinity to Southern and Southwestern Points Routed Wabash-Missouri Pacific Via East St. Louis

July, 1925

Showing Division of the Traffic That Crossed the River

	Pounds	Per cent
Merchandise tonnage handled by wagon transfer from Wabash Freight Depot, East St. Louis to Missouri Pacific, Gratiot St. Depot St. Louis	711,672	37%
Merchandise tonnage moving from Wabash Depot, East St. Louis to Missouri Pacific, Gratiot St. Depot, St. Louis in merchandise cars.....	1,199,178	63%
	1,910,850	100%

Showing Division of all the Merchandise Traffic Interchanged

	Pounds	Per cent
Merchandise tonnage handled by wagon transfer from Wabash Freight Depot, East St. Louis to Missouri Pacific, Gratiot St. Depot St. Louis	711,672	15%
Merchandise tonnage moving from Wabash Depot East St. Louis to Missouri Pacific, Gratiot St. Depot St. Louis in merchandise cars	1,199,178	26%
Merchandise tonnage moving from Wabash Depot, East St. Louis to Missouri Pacific, handled in through merchandise cars, which were delivered direct to the Missouri Pacific for movement south	2,779,667	59%
	4,690,517	100%

(Here follow Exhibits Nos. 72, 73, 74, 75, 76, 77, marked side folio pages 1272-1299, inc.)

[fols. 1300-1394-1402] In United States District Court

[Title omitted]

Order Approving Statement of Evidence

On the written stipulation of the parties, it is ordered that—

1. The within and foregoing statement of evidence in narrative form shall be, and the same hereby, is approved.

2. All exhibits in their original form as they are included in the transcript of the testimony before the Interstate Commerce Commission in its Docket No. 16697, certified by the Commission and offered in evidence herein, and the statement of evidence in narrative form shall be incorporated in the record. They contain all the evidence submitted to this court on the hearing of this cause, and shall be transmitted by the Clerk of the District Court to the Supreme Court of the United States in lieu of the certified

EXHIBIT NO. 72

WITNESS - NASH

I.C.C. DOCKET NO. 16697.

CHICAGO, ROCK ISLAND & PACIFIC RY.

vs

BALTIMORE & OHIO RY. CO. ET AL

HISTCRICAL STATEMENT OF

CLASS RATES FROM EASTERN POINTS

to

ST. LOUIS, MO. AND E. ST. LOUIS, ILL.

BALTIMORE AND OHIO RAILROAD

PENNSYLVANIA R.R.

HISTORY OF CLASS RATES

FROM

CINCINNATI, OHIO.

TO

DATE	EAST ST. LOUIS, ILL. (Rates in Cents Per 100 Pounds)						ST. LOUIS, MO. (Rates in Cents Per 100 Pounds)					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 40	34	25	17	15	12			*			
Feb. 1, 1906	(1) 40	34	25	17	15	12	(2) 42	36	26	18	15½	12½
June 15, 1906	(1) 40	34	25	17	15	12	(3) 41	35	26	18	15½	12½
Feb. 1, 1908	(3) 41	34½	25½	17½	15	12	(4) 41	34½	25½	17½	15	12
Oct. 25, 1914	(6) 43.1	36.2	26.8	18.4	15.8	12.6	(6) 43.1	36.2	26.8	18.4	15.8	12.6
Oct. 20, 1917	(7) 54	46	36	27	19	15	(7) Same as to East St. Louis.					
June 25, 1918	(8) 67½	57½	45	34	24	19	(8) Same as to East St. Louis.					
Feb. 29, 1920	(9) 67½	57½	45	34	23½	19	(9)Same as to East St. Louis.					
Aug. 26, 1920	(10) 94½	80½	63	47½	33	26½	(10) Same as to East St. Louis.					
May 20, 1921	(11) 94½	80½	63½	47½	33	26½	(11) Same as to East St. Louis.					
July 1, 1922	(12) 85	72½	57	42½	30	24	(12) Same as to East Stl Louis.					

EXPLANATION OF REFERENCES

(1) R.M. Fraser's I.C.C. B-44.

(2) " " I.C.C. B-48.

(3) " " I.C.C. B-51.

(4) " " I.C.C. B-51, Supplement 19. Rates equalized on this date.

(5) " " I.C.C. B-49. Rates equalized on this date.

(6) W.D.Cameron's I.C.C. D-64, Supplement 25.

(7) " " I.C.C. D-96, Supplement 16.

(8) " " I.C.C. D-109, Supplement 3.

(9) E. Morris' I.C.C. 696, Supplement 14.

(10) Kelly's I.C.C. 947, Supplement 1.

(11) Kelly's I.C.C. 941.

(12) Current rates also, per Kelly's I.C.C. 941, Supplement 19.

* - No through rates. Add bridge tolls to East St. Louis rates.

BALTIMORE AND OHIO R.R.

HISTORY OF CLASS RATES

FROM

CLEVELAND, OHIO

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds)						ST. LOUIS, MO. (Rates In Cents Per 100 Pounds)					
	CLASSES						CLASSES					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1,1906	(1) 51½	44½	33	23	19½	15½			*			
Feb. 1,1906	(2) 51½	44½	33	23	19½	15½	(2) 53½	46½	34	24	20	16
June 15,1906	(2) 51½	44½	33	23	19½	15½	(3) 52½	45½	34	24	20	16
Feb. 1, 1908	(4) 52½	45	33½	23½	19½	15½	(4) 52½	45	33½	23½	19½	15½
July 1, 1908	(5) 52½	45½	33½	23	19½	15½	(5) Same as to East St. Louis.					
Oct. 26, 1914	(6) 56.5	47.5	35.6	24.8	20.8	16.9	(6) Same as to East St. Louis.					
Sept.20, 1917	(7) 65½	55½	44	33	23	18½	(7) Same as to East St. Louis.					
June 25, 1918	(8) 82	69½	55	41½	29	23	(8) Same as to East St. Louis.					
Feb. 29, 1920	(9) 82	69½	55	41	28½	23	(9) Same as to East St. Louis.					
Aug. 26, 1920	(10) 115	97½	77	57½	40	32	(10) Same as to East St. Louis.					
Dec. 5, 1920	(11) 115	98	77	57½	40½	32	(11) Same as to East St. Louis.					
July 1, 1922	(12) 103½	88	69½	52	36	29	(12) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) B.& O. I.C.C. 5125.

(2) " I.C.C. 5539.

(3) " I.C.C. 5539, Supplement 11.

(4) " I.C.C. 5539, Supplement 18 - Equalized on this date

(5) " I.C.C. 5539, Supplement 21.

(6) " I.C.C. 11640.

(7) " I.C.C. 15159.

(8) " I.C.C. 15159, Supplement 3.

(9) " I.C.C. 15159, Supplement 8.

(10) Kelly's I.C.C. 940, Supplement 6.

(11) Kelly's I.C.C. 940, Supplement 7.

(12) Kelly's I.C.C. 940, Supplement 20, Current publication.

* - No through rates. Add bridge tolls to E.St.Louis rates.

PENNSYLVANIA RAILROAD COMPANY

HISTORY OF CLASS RATES

FROM

CLEVELAND, O.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 pounds) CLASSES						ST. LOUIS, MO. (Rates In Cents Per 100 pounds) CLASSES					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 51½	44½	33	23	19½	15½			*			
March 23,1908	(2) 52½	45	33½	23½	19½	15½	(2) 52½	45	33½	23½	19½	15½
June 15, 1908	(3) 52½	45	33½	23	19½	15½	(3) 52½	45	33½	23	19½	15½
Oct..26, 1914	(4) 55.5	47.5	35.4	24.3	20.6	16.4	(4) Same as to East St. Louis.					
Sept. 20, 1917	(5) 65½	55½	44	33	23	18½	(5) Same as to East St. Louis.					
June 25, 1918	(6) 82	69½	55	41½	29	23	(6) Same as to East St. Louis.					
Dec. 19, 1919	(7) 82	69½	55	41	28½	23	(7) Same as to East St. Louis.					
Aug. 26, 1920	(8) 115	97½	77	57½	40	32	(8) Same as to East St. Louis.					
Dec. 5, 1920	(9) 115	98	77	57½	40½	32	(9) Same as to East St. Louis.					
July 1, 1922	(10) 103½	88	69½	52	36	29	(10) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) Penna. Co. I.C.C. C-1027.

(2) " " I.C.C. C-1027, Supplement 17.

(3) " " I.C.C. C-1027, Supplement 21.

(4) " " I.C.C. F-600.

(5) " " I.C.C. F-912.

(6) " " I.C.C. F-912, Special increase supplement.

(7) " " I.C.C. F-912 First Revised page.

(8) Kelly's I.C.C. 940.

(9) Jones' I.C.C. 940.

(10) Jones' I.C.C. 940, Current publication.

* - Rates to St. Louis made by addition of bridge tolls to East St. Louis rates. No thru rates published to St. Louis until March 23, 1908.

% - Rates equalized on this date.

NEW YORK CENTRAL RAILROAD

HISTORY OF CLASS RATES

FROM

CLEVELAND, OHIO.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds)						ST. LOUIS, MO. (Rates In Cents Per 100 Pounds)					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 51½	44½	33	23	19½	15½			*			
March 27, 1906	(1) 51½	44½	33	23	19½	15½	(2) 53½	46½	34	24	20	16
June 15, 1906	(1) 51½	44½	33	23	19½	15½	(3) 52½	45½	34	24	20	16
Feb. 1, 1908	(4) 52½	45	33½	23½	19½	15½	(4) 52½	45	33½	23½	19½	15½
June 15, 1908	(5) 52½	45	33½	23	19½	15½	(5) 52½	45	33½	23	19½	15½
Oct. 26, 1914	(6) 55.3	47.5	35.4	24.3	20.6	16.4	(6) 55.3	47.5	35.4	24.3	20.6	16.4
Sept. 20, 1917	(7) 65½	55½	44	33	23	18½	(7) Same as to East St. Louis.					
June 25, 1918	(8) 82	69½	55	41½	29	23	(8) Same as to East St. Louis.					
Feb. 29, 1920	(7) 82	69½	55	41½	28½	23	(7) Same as to East St. Louis.					
Aug. 26, 1920	(9)115	97½	77	57½	40	32	(9) Same as to East St. Louis.					
Dec. 6, 1920	(9)115	98	77	57½	40½	32	(9) Same as to East St. Louis.					
July 1, 1922	(10)103½	88	69½	52	36	29	(10) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) L.S.& M.S. I.C.C. A-82.

(2) " " A-82, Supplement 21.

(3) " " A-82, Supplement 23.

(4) " " A-82, Supplement 25. Rates equalized on this date.

(5) " " A-82, Supplement 29.

(6) " " A-82, A-3213.

(7) N.Y.C. I.C.C. LS-442.

(8) " " LS-442, Special increase supplement.

(9) Jones' I.C.C. 940.

(10) Jones' I.C.C. 940. Current rates.

* - No thru rates. Add bridge tolls to East St. Louis rates.

BALTIMORE AND OHIO R.R.

HISTORY OF CLASS RATES

FROM

COLUMBUS, OHIO

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds)							ST. LOUIS, MO.					
	CLASSES							CLASSES					
		1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1,1906	(1)	45	39	30	21	18	14	*					
Feb. 1,1906	(1)	45	39	30	21	18	14	(2) ♯ 47	41	31	22	18½	14½
June 15, 1906	(1)	45	39	30	21	18	14	(3) ♯ 46	40	31	22	18½	14½
℅Feb.15, 1908	(4)	46	39½	30½	21½	18	14	(4) ♯ 46	39½	30½	21½	18	14
Jan. 30, 1909	(5)	46	39½	30½	21	18	14	(5) ♯ 46	39½	30½	21	18	14
Oct. 26, 1914	(6)	48.3	41.5	32	22.1	18.9	14.7	(6) ♯ 48.3	41.5	32	22.1	18.9	14.7
Sept.20, 1917	(7)	60	51	40	30	21	17	(7) 60	51	40	30	21	17
June 25, 1918	(8)	75	64	50	37½	26½	21½	Same as to East St. Louis.					
Feb. 29, 1920	(9)	75	64	50½	37½	26½	21	Same as to East St. Louis.					
Aug. 26, 1920	(10)	105	89½	70½	52½	37	29½	Same as to East St. Louis.					
July 1, 1922	(11)	94½	80½	63½	47½	33	26½	Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) B.& O.S.W. I.C.C. 4497.

(2) " I.C.C. 4497, Supplement 6.

(3) " I.C.C. 4497, Supplement 9.

(4) " I.C.C. 4497, Supplement 19.

(5) " I.C.C. 4497, Supplement 25.

(6) B.& O.S.W. I.C.C. 4497, Supplement 35.

(7) " I.C.C. 7440.

(8) " I.C.C. 7440, Supplement 5.

(9) " I.C.C. 7440, Supplement 11.

(10) Kelly's I.C.C. 941, Supplement 5.

(11) Kelly's I.C.C. 941, Supplement 19-Current publication.

* - Rates to St. Louis made by addition of Bridge tolls to East St. Louis rates.

♯ - Basis applies only when the rates from St. Louis to points West thereof are less than from East St. Louis. Where rates from St. Louis are same as from East St. Louis, East St. Louis combination applies; this is specific clause in the tariff.

℅ - Rates equalized on this date.

CLEVELAND,CINCINNATI,CHICAGO & ST. LOUIS R.R.

HISTORY OF CLASS RATES

FROM

COLUMBUS, O.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds)						ST. LOUIS, Mo. (Rates In Cents Per 100 Pounds)					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 45	39	30	21	18	14			*			
Feb. 7, 1906	(1) 45	39	30	21	18	14	(1) 47	41	31	22	18½	14½
July 28, 1906	(1) 45	39	30	21	18	14	(1) 46	40	30	21	18½	14½
Jan. 23, 1907	(1) 45	39	30	21	18	14	(1) 46	40	31	22	18½	14½
April 27, 1908	(1) 46	39½	30½	21½	18	14	(1) 46	39½	30½	21½	18	14
Aug. 3, 1908	(1) 46	39½	30½	21	18	14	(1) 46	39½	30½	21	18	14
Oct. 26, 1914	(2) 48.3	41	32	22.1	18.9	14.7	(2) 48.3	41	32	22.1	18.9	14.7
Sept. 10, 1915	(2) 48.3	41½	32	22.1	18.9	14.7	(2) 48.3	41½	32	22.1	18.9	14.7
Sept. 20, 1917	(3) 60	51	40	30	21	17	(3) Same as to East St. Louis.					
June 25, 1918	(3) 75	64	50	37½	26½	21½	(3) Same as to East St. Louis.					
Feb. 29, 1920	(4) 75	64	50½	37½	26½	21	(4) Same as to East St. Louis.					
Aug. 26, 1920	(5)105	89½	70½	52½	37	29½	(5) Same as to East St. Louis.					
July 1, 1922	(5) 94½	80½	63½	47½	33	26½	(5) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) C.C.C.& St.L. I.C.C. 1682. Rates equalized on April 27, 1908.

(2) " " I.C.C. 6446.

(3) " " I.C.C. 6963.

(4) " " I.C.C. 7418.

(5) Jones' I.C.C. 941. Current publication. Rates as of July 1, 1922 currently in effect.

* - No thru rates. Add bridge tolls to East St. Louis rates.

PENNSYLVANIA RAILROAD

HISTORY OF CLASS RATES

FROM

COLUMBUS, OHIO.

TO

(Rates In Cents Per 100 Pounds)

DATE	EAST ST. LOUIS, Ill. CLASSES						ST. LOUIS, ILL. CLASSES					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 45	39	30	21	18	14			*			
Feb. 1, 1906	(1) 45	39	30	21	18	14	(2) 47	41	31	22	18½	14½
March 4, 1907	(1) 45	39	30	21	18	14	(3) 46	40	31	22	18½	14½
Feb. 1, 1908	(4) 46	39½	30½	21½	18	14	(4) 46	39½	30½	21½	18	14
Nov. 2, 1908	(5) 46	39½	30½	21	18	14	(5) 46	39½	30½	21	18	14
Oct. 26, 1914	(6) 48.3	41.5	32	22.1	18.9	14.7	(6) Same as to East St. Louis.					
Oct. 20, 1917	(7) 60	51	40	30	21	17	(7) Same as to East St. Louis.					
June 25, 1918	(8) 75	64	50	37½	26½	21½	(8) Same as to East St. Louis.					
Dec. 31, 1919	(9) 75	64	50½	37½	26½	21	(9) Same as to East St. Louis.					
Aug. 26, 1920	(10)105	89½	70½	52½	37	29½	(10) Same as to East St. Louis.					
July 1, 1922	(11) 94½	80½	63½	47½	33	26½	(11) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) P.C.C. & St.L. I.C.C. CA-7.

(2) " " " I.C.C. CA-7, Supplement 4.

(3) " " " I.C.C. CA-7, Supplement 8.

(4) " " " I.C.C. CA-7, Supplement 11. Rates equalized on this date.

(5) " " " I.C.C. CA-7, Supplement 17.

(6) " " " I.C.C. P-890.

(7) " " " I.C.C. P-910.

(8) " " " I.C.C. P-910, Supplement 1.

(9) " " " I.C.C. P-910, 5th revised page.

(10) " " " I.C.C. P-910, Supplement 6.

(11) " " " I.C.C. P-910, 10th revised page. Current publication 11th Revised page. Same rates.

* - No thru rates. Add bridge tolls to East St. Louis rates.

NEW YORK CENTRAL RAILROAD

(OHIO CENTRAL - T.& O.C. DIVISION)

HISTORY OF CLASS RATES

FROM

COLUMBUS, O.

TO

DATE	EAST ST. LOUIS, ILL. (Rates in Cents Per 100 Pounds)						ST. LOUIS, MO.					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 46	39½	30½	21½	18	14			*			
Feb. 28, 1906	(1) 46	39½	30½	21½	18	14	(2) 48	41½	31½	22½	18½	14½
June 15, 1906	(1) 46	39½	30½	21½	18	14	(3) 47	40½	31½	22½	18½	14½
Jan. 24, 1908	(1) 46	39½	30½	21½	18	14	(4) 46	39½	30½	21½	18	14
Oct. 26, 1914	(5) 48.3	41.5	32	22.1	18.9	14.7	(5) 48.3	41.5	32	22.1	18.9	14.7
Sept. 20, 1917	(6) 60	51	40	30	21	17	(6) Same as to East St. Louis.					
June 25, 1918	(7) 75	64	50	37½	26½	21½	(7) Same as to East St. Louis.					
Feb. 29, 1920	(8) 75	64	50½	37½	26½	21	(8) Same as to East St. Louis.					
Aug. 26, 1920	(9)105	89½	70½	52½	37	29½	(9) Same as to East St. Louis.					
July 1, 1922	(10) 94½	80½	63½	47½	33	26½	(10) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) T.& O.C. I.C.C. 175.

(2) " " 1256.

(3) " " 1273.

(4) " " 1493. Rates equalized on this date.

(5) " " 2194.

(6) " " 2454.

(7) " " 2454. Special Increase Supplement.

(8) " " 2677.

(9) Jones' I.C.C. 941. Special Supplement.

(10) Jones' I.C.C. 941. Current rates and current publication.

* - No thru rates. Add bridge tolls to East St. Louis rates.

WABASH RAILROAD

HISTORY OF CLASS RATES

FROM

DETROIT, MICH.

TO

(Rates In Cents Per 100 Pounds)

DATE	EAST ST. LOUIS, ILL.						ST. LOUIS, MO.					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 45	39	30	21	18	14			*			
Feb. 1, 1906	(1) 45	39	30	21	18	14	(2) 47	41	31	22	19	15
June 15, 1906	(1) 45	39	30	21	18	14	(2) 46	40	31	22	18½	14½
Feb. 1, 1908	(3) 46	39½	30½	21½	18	14	(3) Same as to East St. Louis.					
Aug. 18, 1908	(4) 46	39½	30½	21	18	14	(4) Same as to East St. Louis.					
Oct. 26, 1914	(5) 48.3	41½	32	22.1	18.9	14.7	(5) Same as to East St. Louis.					
Sept. 20, 1917	(6) 63½	54	42½	32	22	18	(6) Same as to East St. Louis.					
June 25, 1918	(7) 79½	67½	53	40	27½	22½	(7) Same as to East St. Louis.					
July 10, 1919	(8) 79½	67½	53½	40	28	22½	(8) Same as to East St. Louis.					
Aug. 26, 1920	(9)111½	94½	75	56	39	31½	(9) Same as to East St. Louis.					
Dec. 8, 1920	(10)111½	95	74½	56	39	31	(10) Same as to East St. Louis.					
July 1, 1922	(11)100½	85½	67½	50½	35	28	(11) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) Wabash I.C.C. 1025.

(2) Wabash I.C.C. 1674.

(3) Wabash Lines I.C.C. 899. Rates equalized on this date.

(4) Wabash Lines I.C.C. 899, Supplement 1.

(5) Wabash R.R. I.C.C. 3832.

(6) Wabash R.R. I.C.C. 4394.

(7) Wabash R.R. I.C.C. 4394, Supplement 2.

(8) " " " 4394, Supplement 3.

(9) W.J.Kelly's " 939, Supplement 4.

(10) " " " 939, Supplement 5.

(11) " " " 939, Supplement 21. Current rates and current publication.

* - No thru rate. Add bridge tolls to East St. Louis rates.

NEW YORK CENTRAL RAILROAD

HISTORY OF CLASS RATES

FROM

DETROIT, MICH.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds)						ST. LOUIS, MO. (Rates In Cents Per 100 Pounds)					
	CLASSES						CLASSES					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 45	39	30	21	18	14			*			
March 27, 1906	(1) 45	39	30	21	18	14	(2) 47	41	31	22	18½	14½
June 15, 1906	(1) 45	39	30	21	18	14	(3) 46	40	31	22	18½	14½
Feb. 1, 1908	(4) 46	39½	30½	21½	18	14	(4) 46	39½	30½	21½	18	14
June 15, 1908	(5) 46	39½	30½	21	18	14	(5) 46	39½	30½	21	18	14
Oct. 26, 1914	(6) 48.3	41.5	32	22.1	18.9	14.7	(6) 48.3	41.5	32	22.1	18.9	14.7
Sept. 20, 1917	(7) 63.5	54	42.5	32	22	18	(7) Same as to East St. Louis.					
June 25, 1918	(8) 79½	67½	53	40	27½	22½	(8) Same as to East St. Louis.					
Feb. 29, 1920	(7) 79½	67½	53½	40	28	22½	(7) Same as to East St. Louis.					
Aug. 26, 1920	(9)111½	94½	75	56	39	31½	(9) Same as to East St. Louis.					
Dec. 8, 1920	(9)111½	95	74½	56	39	31	(9) Same as to East St. Louis.					
July 1, 1922	(10)100½	85½	67½	50½	35	28	(10) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) L.S.& M.S. I.C.C. A-82.

(2) " " I.C.C. A-82, Supplement 21.

(3) " " I.C.C. A-82, Supplement 23.

(4) " " I.C.C. A-82, Supplement 25. Rates equalized on this date.

(5) " " I.C.C. A-82, Supplement 29.

(6) " " I.C.C. A-3213.

(7) N.Y.C. I.C.C. LS-448.

(8) N.Y.C. I.C.C. LS-448. Special increase supplement.

(9) Jones' I.C.C. 939.

(10) Jones' I.C.C. 939. Current rates.

* - No thru rates. Add bridge tolls to East St. Louis rates.

PENNSYLVANIA RAILROAD COMPANY

HISTORY OF CLASS RATES

FROM

INDIANAPOLIS, IND.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds) CLASSES						ST. LOUIS, ILL. CLASSES					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 37	32	23½	16	13½	10½			*			
Feb. 1, 1906	(1) 37	32	23½	16	13½	10½	(2) 39	34	24½	17	14	11
June 15, 1906	(1) 37	32	23½	16	13½	10½	(3) 38	33	24½	17	14	11
Feb. 1, 1908	(4) 40	32½	24	16½	13½	10½	(4) 40	32½	24	16½	13½	10½
Feb. 10,1908	(5) 38	32½	24	16½	13½	10½	(5) 38	32½	24	16½	13½	10½
Oct. 26, 1914	(6) 39.9	34.1	25.2	17.3	14.2	11	(6) Same as to East St. Louis.					
Sept. 20, 1917	(7) 49	41½	33	24½	17	13½	(7) Same as to East St. Louis.					
June 25, 1918	(8) 61½	52	41½	30½	21½	17	(8) Same as to East St. Louis.					
Aug. 26, 1920	(9) 86	73	58	42½	30	24	(9) Same as to East St. Louis.					
Dec. 1, 1920	(10) 86	73	57½	43	30	24	(10) Same as to East St. Louis.					
July 1, 1922	(11) 77½	66	52	39	27	21½	(11) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) Vandalia I.C.C. 677.

(2) " I.C.C. 677, Supplement 6.

(3) " I.C.C. 677, Supplement 7.

(4) " I.C.C. 677, Supplement 7. Rates equalized on this date.

(5) " I.C.C. 677, Supplement 13.

(6) " I.C.C. 2748.

(7) P.C.C.& St.L. I.C.C. P-910.

(8) " I.C.C. P-910, Supplement 1.

(9) " I.C.C. P-910, Supplement 9.

(10) " I.C.C. P-910, 6th Revised page.

(11) " I.C.C. P-910, 8th Revised page.

Current Rates per 9th Revised Page.

* - No thru rate to St. Louis. Rates made by adding bridge tolls to East St. Louis rates.

BALTIMORE & OHIO R.R.

PENNSYLVANIA R.R. CO.

HISTORY OF CLASS RATES

FROM

LOUISVILLE, KY.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds)						ST. LOUIS, MO. (Rates In Cents Per 100 Pounds)					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 40	34	25	17	15	12			*			
Feb. 1, 1906	(1) 40	34	25	17	15	12	(2) 42	36	26	18	15½	12½
June 15, 1906	(1)40	34	25	17	15	12	(3) 41	35	26	18	15½	12½
Feb. 1, 1908	(5) 41	34½	25½	17½	15	12	(4) 41	34½	25½	17½	15	12
Oct. 26, 1914	(6) 43.1	36.2	26.8	18.4	15.6	12.6	(6) Same as to East St. Louis.					
Sept. 20, 1917	(7) 51	43½	34½	26	18½	15	(7) Same as to East St. Louis.					
June 25, 1918	(8) 64	54½	43	32½	23	19	(8) Same as to East St. Louis.					
Feb. 29, 1920	(9) 63½	54	43	32½	23	18½	(9) Same as to East St. Louis.					
Aug. 26, 1920	(10) 89	75½	60	45½	32	26	(10) Same as to East St. Louis.					
Dec. 1, 1920	(11) 89	76	60	45½	32	26	(11) Same as to East St. Louis.					
Sept. 30, 1921	(12) 88	75	59	44	31	24½	(12) Same as to East St. Louis.					
July 1, 1922	(13) 79	67	53	39½	27½	22	(13) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) R.M. Fraser's I.C.C. B-44.

(2) " " I.C.C. B-48.

(3) " " I.C.C. B-51.

(4) " " I.C.C. B-51, Supplement 19. Equalized this date.

(5) " " I.C.C. B-49.

(6) Wm.Cameron's I.C.C. D-64

(7) " " I.C.C. D-96, Supplement 18.

(8) " " I.C.C. D-109, Supplement 3.

(9) Morris' I.C.C. 696, Supplement 14.

(10) Kelly's Supplement 2 to I.C.C. 948.

(11) Kelly's Supplement 7 to I.C.C. 938.

(12) Kelly's Supplement 15 to I.C.C. 938.

(13) Kelly's Supplement 25 to I.C.C. 938. Current publication.

* - No thru rates. All bridge tolls to East St. Louis rates.

1284

BALTIMORE & OHIO RAILROAD

HISTORY OF CLASS RATES

FROM

NEW YORK, N.Y.

TO

DATE	EAST ST. LOUIS, ILL. (Rates in Cents per 100 Pounds)						ST. LOUIS, MO.					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 87	75	58	41	35	29			*			
Feb. 1, 1906	(1) 87	75	58	41	35	29	(2) 89	77	59	42	35½	29½
June 20, 1906	(1) 87	75	58	41	35	29	(3) 88	76	59	42	35½	29½
Jan. 2, 1908	(4) 88	76	59	41	35	29	(4) 88	76	59	41	35	29
Jan. 15, 1915	(5) 92.2	79.9	61.4	43.1	36.9	30.8	(5) Same as to East St. Louis.					
July 16, 1917	(6)105½	92½	70	49	42	35	(6) Same as to East St. Louis.					
June 25, 1918	(7)132	115½	87½	61½	52½	44	(7) Same as to East St. Louis.					
Feb. 20, 1919	(8)131½	116	88	61½	52½	44	(8) Same as to East St. Louis.					
Aug. 26, 1920	(9)184	162½	123	86	73½	61½	(9) Same as to East St. Louis.					
June 20, 1921	(10)184½	162	123	86	73½	61½	(10) Same as to East St. Louis.					
July 1, 1922	(11)166	145½	110½	77	66	55½	(11) Same as to East St. Louis.					

EXPLANATION OF REFERENCES.

(1) B.& O. I.C.C. 5435.

(2) " " 5435, Supplement 2.

(3) " " 5435, Supplement 7.

(4) " " 5435, Supplement 26. Rates equalized on this date.

(5) " " 11568.

(6) " " 14842, Supplement 10.

(7) " " 15305, Supplement 2.

(8) F.S.Davis' I.C.C. A-1.

(9) " " I.C.C. A-1, Supplement 11.

(10) " " I.C.C. A-55.

(11) W.S.Curlett's I.C.C. A-79. Current publication and current rates.

* - No thru rates. Add bridge tolls to East St. Louis rates.

NEW YORK CENTRAL RAILROAD

HISTORY OF CLASS RATES

FROM

NEW YORK, N.Y.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds) CLASSES						ST. LOUIS, MO. (Rates In Cents Per 100 Pounds) CLASSES					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 87	75	58	41	35	29			*			
Feb. 1, 1906	(1) 87	75	58	41	35	29	(2) 89	77	59	42	35½	29½
June 15, 1906	(1) 87	76	58	41	35	29	(3) 88	76	59	42	35½	29½
Jan. 1, 1908	(4) 88	76	59	41	35	29	(4) 88	76	59	41	35	29
Jan. 15, 1915	(5) 92.2	79.9	61.4	43.1	36.9	30.8	(5) Same as to East St. Louis.					
July 16, 1917	(6)105½	92½	70	49	42	35	(6) Same as to East St. Louis.					
June 25, 1918	(7)132	115½	87½	61½	52½	44	(7) Same as to East St. Louis.					
Feb. 20, 1919	(8)131½	116	88	61½	52½	44	(8) Same as to East St. Louis.					
Aug. 26, 1920	(9)184	162½	123	86	73½	61½	(9) Same as to East St. Louis.					
June 20, 1921	(10)184½	162	123	86	73½	61½	(10) Same as to East St. Louis.					
July 1, 1922	(11)166	145½	110½	77	66	55½	(11) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) N.Y.C.& H.R. I.C.C. B-4038.

(2) " " " I.C.C. B-4038, Supplement 1.

(3) " " " I.C.C. B-4038, Supplement 3.

(4) " " " I.C.C. B-4038, Supplement 9. Rates equalized on this date.

(5) " " " I.C.C. B-18971. First publication of 5% increase I.& S. 338.

(6) " " " I.C.C. B-18971. Effective date of 15% increase, Ex Parte 57.

(7) " " " I.C.C. 6414, General Order 28 increases.

(8) F. S. Davis' I.C.C. A-1.

(9) " " I.C.C. A-1, Supplement 11. Ex Parte 74 increases.

(10) " " I.C.C. A-55.

(11) W. S. Curlett's I.C.C. A-79. 10% reduction. Current publication and current rates.

* - No thru rates. Add bridge tolls to East St. Louis rates.

PENNSYLVANIA RAILROAD

HISTORY OF CLASS RATES

FROM

NEW YORK, N.Y.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds)						ST. LOUIS, MO. (Rates In Cents Per 100 Pounds)					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 87	75	58	41	35	29			*			
Feb. 1, 1906	(1) 87	75	58	41	35	29	(2) 89	77	59	42	35½	29½
Jan. 2, 1908	(2) 88	76	59	41	35	29	(2) 88	76	59	41	35	29
Jan. 15, 1915	(3) 92.2	79.9	61.4	43.1	36.9	30.8	(3) 92.2	79.9	61.4	43.1	36.9	30.8
July 16, 1917	(4)105½	92½	70	49	42	35	(4) Same as to East St. Louis.					
June 25, 1918	(5)132	116	88	61½	52½	44	(5) Same as to East St. Louis.					
Feb. 20, 1919	(6)131½	116	88	61½	52½	44	(6) Same as to East St. Louis.					
Aug. 26, 1920	(7)184	162½	123	86	73½	61½	(7) Same as to East St. Louis.					
June 20, 1921	(8)184½	162	123	86	73½	61½	(8) Same as to East St. Louis.					
July 1, 1922	(9)166	145½	110½	77	66	55½	(9) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) P.R.R. I.C.C. G-2283.

(2) P.R.R. I.C.C. G-2610. Rates equalized Jan. 2, 1908.

(3) P.R.R. I.C.C. GO-3899.

(4) P.R.R. I.C.C. GO-6879.

(5) P.R.R. I.C.C. GO-8339, Supplement 3.

(6) P.S.Davis' I.C.C. A-1.

(7) " " I.C.C. A-1, Supplement 11.

(8) " " I.C.C. A-55.

(9) W.S.Curlett's I.C.C. A-79. 10% reduction. Current publication and current rates.

* - No thru rates. Add bridge tolls to East St. Louis rates.

BALTIMORE & OHIO RAILROAD

HISTORY OF CLASS RATES

FROM

PITTSBURGH, PA.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds)						ST. LOUIS, MO. (Rates In Cents Per 100 Pounds)					
	C L A S S E S						C L A S S E S					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 55½	48½	37	26	22½	18½			*			
Feb. 1, 1906	(1) 55½	48½	37	26	22½	18½	(1) 57½	50½	38	27	23	19
June 15, 1906	(1) 55½	48½	37	26	22½	18½	(1) 56½	49½	38	27	23	19
June 20, 1908	(1) 56½	49	37½	26	22½	18½	(1) 56½	49	37½	26	22½	18½
Oct. 26, 1914	(2) 59.3	51.5	39.4	27.3	23.6	19.4	(2) 59.3	51.5	39.4	27.3	23.6	19.4
Oct. 1, 1917	(3) 77½	66	52	39	27	21½	(3) Same as to East St. Louis.					
June 25, 1918	(4) 97	82½	65	49	34	27	(4) Same as to East St. Louis.					
Feb. 29, 1920	(5) 97	82½	65	48½	34	27	(5) Same as to East St. Louis.					
Aug. 26, 1920	(6)136	115½	91	68	47½	38	(6) Same as to East St. Louis.					
July 1, 1922	(7)122½	104	82	61	43	34	(7) Same as to East St. Louis.					
Dec. 15, 1922	(6)122½	104	82	61½	43	34½	(8) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) B.& O. I.C.C. A-34. Rate equalized on June 20, 1908.

(2) " I.C.C. 9000, Supplement 22.

(3) " I.C.C. 15168.

(4) " I.C.C. 15168, Supplement 12.

(5) " I.C.C. 15168, Supplement 24.

(6) Kelly's I.C.C. 835, Supplement 5.

(7) Kelly's I.C.C. 835, Supplement 20.

(8) Kelly's I.C.C. 835, Supplement 21. Current publication of same rates is Jones' I.C.C. 1534.

* - No thru rates. Add bridge tolls to East St. Louis rates.

PENNSYLVANIA RAILROAD COMPANY

HISTORY OF CLASS RATES

FROM

PITTSBURGH, PA.

TO

DATE	EAST ST. LOUIS, ILL. (Rates In Cents Per 100 Pounds) CLASSES						ST. LOUIS, MO. (Rates In Cents Per 100 Pounds) CLASSES					
	1	2	3	4	5	6	1	2	3	4	5	6
Jan. 1, 1906	(1) 55½	48½	37	26	22½	18½			*			
Feb. 1, 1906	(1) 55½	48½	37	26	22½	18½	(2) 57½	50½	38	27	23	19
June 15, 1906	(1) 55½	48½	37	26	22½	18½	(3) 56½	49½	38	27	23	19
Aug. 28, 1906	(4) 56½	49½	38	27	23	19	(3) 56½	49½	38	27	23	19
Feb. 17, 1908	(5) 56½	49	37½	26½	22½	18½	(5) 56½	49	37½	26½	22½	18½
Jan. 1, 1910	(6) 56½	49	37½	26	22½	18½	(6) Same as to East St. Louis.					
Oct. 26, 1914	(7) 59.3	51.5	39.4	27.3	23.6	19.4	(7) Same as to East St. Louis.					
Sept. 20, 1917	(8) 77½	66	52	39	27	21½	(8) Same as to East St. Louis.					
June 25, 1918	(9) 97	82½	65	49	34	27	(9) Same as to East St. Louis.					
Dec. 19, 1919	(10)97	82½	65	48½	34	27	(10) Same as to East St. Louis.					
Aug. 26, 1920	(11) 136	115½	91	68	47½	38	(11) Same as to East St. Louis.					
July 1, 1922	(12) 122½	104	82	61	43	34	(12) Same as to East St. Louis.					
Dec. 15, 1922	(13) 122½	104	82	61½	43	34½	(13) Same as to East St. Louis.					

EXPLANATION OF REFERENCES

(1) P.C.C.& St.L. I.C.C. A-126.

(2) " I.C.C. A-126, Supplement 2.

(3) " I.C.C. A-126, Supplement 3.

(4) " I.C.C. A-126, Supplement 4 - Rates equalized on this date.

(5) P.C.C. & St.L. I.C.C. A-126, Supplement 9.

(6) " I.C.C. P-176.

(7) " I.C.C. P-590.

(8) " I.C.C. P-915.

(9) " I.C.C. P-915, Supplement 1.

(10) " I.C.C. P-915.

(11) Kelly's I.C.C. 835, Supplement 5.

(12) Kelly's I.C.C. 835, Supplement 20.

(13) Jones' I.C.C. 835, Current publication is Jones' I.C.C. 1534.

* - No thru rates. Rates to St. Louis made by adding bridge tolls to E. St. Louis rates.

[fol. 1290]

EXHIBIT No. 73 (Sheet No. 1)

Statement Showing Through Rates and Divisions to Points in Kansas from Points East of Mississippi River i

Rates in cents per 100 pounds

Item	Date rebilled St. Louis, Mo.	Origin point	Destination	Commodity (carload except as noted)	Carrier at E. St. Louis, Ill., from whom received	Through rate and proportion east and west of E. St. Louis, Ill.			
						Thru	East	West	
57	5/2/17	Youngstown, Ohio	Augusta, Kans.	W. pipe	C&EI	55.1	21.6	33.5	
59	5/7/17	Detroit, Mich.	Arkansas City, "	Autos	PCC&StL	170.1	53.1	117	
60	5/21/17	McKeesport, Pa.	Gordon, "	W. pipe	TStL&W	57.1	23.6	33.5	
61	5/7/17	Pittsburgh, "	Augusta, "	W. pipe	B&O	57.1	23.6	33.5	
62	5/9/17	Oil City, "	" "	Machinery	CCC&StL	72.6	23.6	49	
63	5/11/17	Detroit, Mich.	Baxter Spgs., "	Autos	C&EI	133.1	53.1	80	
64	5/13/17	Painesville, Ohio	Riverton, "	Soda ash	CCC&StL	42.6	14.6	28	
65	5/13/17	Pittsburgh, Pa.	Augusta, "	W. I. pipe	C&EI	57.1	23.6	33.5	
66	5/14/17	Akron, Ohio	Baxter Spgs., "	Well drill mach	PCC&StL	56.1	20.6	35.5	
67	5/15/17	Toledo, "	Augusta, "	Sucker rods	TStL&W	52.4	18.9	33.5	
68	5/16/17	Detroit, Mich.	Wichita, "	Autos	PCC&StL	163.1	53.1	110	
69	5/18/17	Toledo, Ohio	Augusta, "	Sucker rods	TStL&W	52.4	18.9	33.5	
70	5/18/17	Steubenville, "	Pittsburg, "	W. I. pipe	PCC&StL	47.1	23.6	23.5	
70½	5/20/17	Dayton, "	Wichita, "	Paper tablets	PCC&StL	62.1	16.3	45.8	
71	5/21/17	Pittsburgh, Pa.	Riverton, "	Irons and fittings	PCC&StL	67.3	27.3	40	
72	5/22/17	Goes, Ohio	Howe, "	Powder	PCC&StL	97.3	38.3	59	
73	5/22/17	No. Flint, Mich.	Baxter, "	Autos	C&EI	133.1	53.1	30	
74	5/23/17	Detroit, "	Wichita, "	"	"	163.1	53.1	110	
75	5/24/17	Titusville, Pa.	Augusta, "	Engines	PCC&StL	72.6	23.6	49	
76	6/15/17	Washington, "	" "	#Wire rope	B&OSW	85.3	27.3	58	
77	6/15/17	Marietta, Ohio	Augusta, "	#Iron spuds	PCC&StL	109.4	35.4	74	
79	6/15/17	Cincinnati, "	Wichita, "	#Shoes	CCC&StL	153.1	43.1	110	
80	6/14/17	Marion, Ohio	Arcadia, "	#Rivets and steel bands	CCC&StL	57.1	22.1	35	
81	6/14/17	Batesville, Ind.	Ellsworth, "	#Metal cans	CCC&StL	140.1	43.1	97	
82	6/14/17	Ashland, Ohio	Fall River, "	#Hand sprayers and medicine	TStL&W	124.3 157.3	55.3	69 102	
83	6/7/17	Pittsburgh, Pa.	Augusta, "	W. pipe	PCC&StL	57.1	23.6	33.5	
84	6/7/17	Beaver Falls, Pa.	Baxter, "	Oil well supplies	IC	59.1	23.6	35.5	
86	6/14/17	Marion, Ohio	Wichita, "	Engines	CCC&StL	64.4	18.9	45.5	
87	6/13/17	N. Flint, Mich.	Arkansas City, "	Autos	C&EI	170.1	53.1	117	
88	6/11/17	Vincennes, Ind.	Wichita, "	Apples	Southern	57	11	46	
90	6/8/17	Farrell, Pa.	Augusta, "	Nails	PCC&StL	70.1	21.6	48.5	
91	6/2/17	Franklin, "	Baxter Spgs., "	Gas engines	CCC&StL	59.1	23.6	35.5	
92	6/2/17	Youngstown, Ohio	Cherryvale, "	W. pipe	C&EI	45.1	21.6	23.5	
93	6/1/17	Detroit, Mich.	Pittsburg, "	Autos	Wabash	127.1	53.1	74	
94	6/3/17	Youngstown, Ohio	Augusta, "	W. pipe	C&EI	55.1	21.6	33.5	
95	6/4/17	Detroit, Mich.	Winfield, "	Autos	PCC&StL	170.1	53.1	117	
96	6/4/17	" "	Neodesha, "	Caustic soda	TStL&W	38.5	12.5	26	
97	6/6/17	Youngstown, Ohio	Augusta, "	W. pipe	C&EI	55.1	21.6	33.5	
98	6/4/17	Pittsburgh, Pa.	Riverton, "	Switch board meters, transformers	PCC&StL	56.6	23.6	33	
99	6/15/17	Beaver Falls, Pa.	Baxter, "	Oil well supplies	IC	59.1	23.6	35.5	

(1) Commodity rate.
LCL shipments.

EXHIBIT No. 73 (Sheet No. 1)

Statement Showing Through Rates and Divisions to Points in Kansas from Points East of Mississippi River in the Year 1917

Rates in cents per 100 pounds

Origin point		Destination		Commodity (carload except as noted)	Carrier at E. St. Louis, Ill., from whom received	Through rate and proportion east and west of E. St. Louis, Ill.			Rate and tariff authority for local rate to East St. Louis, Ill.		Class rate applied to E. St. Louis, Ill.
						Thru	East	West	Rate	Tariff and I. C. C.	
Youngstown,	Ohio	Augusta,	Kans.	W. pipe	C&EI	55.1	21.6	33.5	21.6	PCo F-600	5th
Detroit,	Mich.	Arkansas City,	"	Autos	PCC&StL	170.1	53.1	117	53.1	MC 4656	110% of 1st
McKeesport,	Pa.	Gordon,	"	W. pipe	TStL&W	57.1	23.6	33.5	23.6	P&LE 1690, Sup. 16	(1)
Pittsburgh,	"	Augusta,	"	W. pipe	B&O	57.1	23.6	33.5	23.6	P&LE 1690, Sup. 16	(1)
Oil City,	"	"	"	Machinery	CCC&StL	72.6	23.6	49	23.6	Erie A-5138	(1)
Detroit,	Mich.	Baxter Spgs.,	"	Autos	C&EI	133.1	53.1	80	53.1	MC 4640	110% of 1st
Painesville,	Ohio	Riverton,	"	Soda ash	CCC&StL	42.6	14.6	28	14.6	LS&MS A-3213	85% of 6th
Pittsburgh,	Pa.	Augusta,	"	W. I. pipe	C&EI	57.1	23.6	33.5	23.6	P&LE 1690, Sup. 16	(1)
Akron,	Ohio	Baxter Spgs.,	"	Well drill mach	PCC&StL	56.1	20.6	35.5	20.6	PCo F-600	5th
Toledo,	"	Augusta,	"	Sucker rods	TStL&W	52.4	18.9	33.5	18.9	TStL&W A-668	5th
Detroit,	Mich.	Wichita,	"	Autos	PCC&StL	163.1	53.1	110	53.1	MC 4656	110% of 1st
Toledo,	Ohio	Augusta,	"	Sucker rods	TStL&W	52.4	18.9	33.5	18.9	TStL&W A-668	5th
Steubenville,	"	Pittsburg,	"	W. I. pipe	PCC&StL	47.1	23.6	23.5	23.6	PCC&StL P-590	5th
Dayton,	"	Wichita,	"	Paper tablets	PCC&StL	62.1	16.3	45.8	16.3	PCC&StL P-590	5th
Pittsburgh,	Pa.	Riverton,	"	Irons and fittings	PCC&StL	67.3	27.3	40	27.3	PCC&StL P-590	5th
Zoes,	Ohio	Howe,	"	Powder	PCC&StL	97.3	38.3	59	38.3	PCC&StL P-590	2nd
No. Flint,	Mich.	Baxter,	"	Autos	C&EI	133.1	53.1	30	53.1	PM 3441	110% of 1st
Detroit,	"	Wichita,	"	"	"	163.1	53.1	110	53.1	MC 4640	110% of 1st
Titusville,	Pa.	Augusta,	"	Engines	PCC&StL	72.6	23.6	49	23.6	PaRR GO-7070	5th
Washington,	"	"	"	#Wire rope	B&OSW	85.3	27.3	58	27.3	B&O 14149	4th
Marietta,	Ohio	Augusta,	"	#Iron spuds	PCC&StL	109.4	35.4	74	35.4	PaCo F-600	3rd
Cincinnati,	"	Wichita,	"	#Shoes	CCC&StL	153.1	43.1	110	43.1	Cameron's D-96, Sup. No. 8	1st
Marion,	Ohio	Arcadia,	"	#Rivets and steel bands	CCC&StL	57.1	22.1	35	22.1	CCC&StL 6446	4th
Gatesville,	Ind.	Ellsworth,	"	#Metal cans	CCC&StL	140.1	43.1	97	43.1	CCC&StL 6448	1st
Ashland,	Ohio	Fall River,	"	#Hand sprayers and medicine	TStL&W	124.3 157.3	55.3	69 102	55.3	Erie A-5138	1st
Pittsburgh,	Pa.	Augusta,	"	W. pipe	PCC&StL	57.1	23.6	33.5	23.6	PCC&StL P-590	5th
Beaver Falls,	Pa.	Baxter,	"	Oil well supplies	IC	59.1	23.6	35.5	23.6	P&LE ICC 1810	5th
Marion,	Ohio	Wichita,	"	Engines	CCC&StL	64.4	18.9	45.5	18.9	CCC&StL 6446	5th
E. Flint,	Mich.	Arkansas City,	"	Autos	C&EI	170.1	53.1	117	53.1	PM 3441	110% of 1st
Vincennes,	Ind.	Wichita,	"	Apples	Southern	57	11	46	11	C&E 2712, Sup. 15	5th
Farrell,	Pa.	Augusta,	"	Nails	PCC&StL	70.1	21.6	48.5	21.6	PaCo F-600	5th
Franklin,	"	Baxter Spgs.,	"	Gas engines	CCC&StL	59.1	23.6	35.5	23.6	LS&MS A-3205	5th
Youngstown,	Ohio	Cherryvale,	"	W. pipe	C&EI	45.1	21.6	23.5	21.6	LS&MS A-3224	5th
Detroit,	Mich.	Pittsburg,	"	Autos	Wabash	127.1	53.1	74	53.1	Wabash 3832	110% of 1st
Youngstown,	Ohio	Augusta,	"	W. pipe	C&EI	55.1	21.6	33.5	21.6	LS&MS A-3224	5th
Detroit,	Mich.	Winfield,	"	Autos	PCC&StL	170.1	53.1	117	53.1	MC 4656	110% of 1st
"	"	Neodesha,	"	Caustic soda	TStL&W	38.5	12.5	26	12.5	MC 4640	85% of 6th
Youngstown,	Ohio	Augusta,	"	W. pipe	C&EI	55.1	21.6	33.5	21.6	PaCo F-600	5th
Pittsburgh,	Pa.	Riverton,	"	Switch board meters, transformers	PCC&StL	56.6	23.6	33	23.6	PCC&StL P-590	5th
Beaver Falls,	Pa.	Baxter,	"	Oil well supplies	IC	59.1	23.6	35.5	23.6	PaCo F-600	5th

[fol. 1291]

EXHIBIT No. 73 (Sheet No. 2)

Statement Showing Through Rates and Divisions to Points in Oklahoma from Points East of the Mississippi River in the Year 1917

Rates in cents per 100 pounds (except as noted)

Item	Date rebilled St. Louis, Mo.	Origin point	Destination	Commodity (carload)	Carrier at E. St. Louis, Ill., from whom received	Through rate and proportion east and west of E. St. Louis, Ill.			Rate and tariff for local rate to East St. Louis, I	
						Thru	East	West	Rate	Tariff and
11	5/1/17	Sharpsburg, Pa.	Tulsa, Okla.	Wrought iron pipe	C&EI	57.6	23.6	34	23.6	PCo F-600
12	5/4/17	McKeesport, Pa.	Tulsa, "	Pipe	"	57.6	23.6	34	23.6	P&LE 1690,
13	5/7/17	Beaver Falls, Pa.	Oklahoma City, Okla.	Cork waste	CCC&StL	106.2	27.3	78.9	23.6	" 1810
14	5/11/17	Detroit, Mich.	Muskogee, "	Autos	C&EI	162.5	53.1	109.4	53.1	MC 4640
15	5/12/17	N. Flint, Mich.	Okmulgee, "	"	"	162.5	53.1	109.4	53.1	PM 3441
16	5/12/17	Southwest, Pa.	Tulsa, "	Iron pipe	CCC&StL	57.6	23.6	34	25.1	PaRR GO-57
17	5/13/17	Akron, Ohio	Oklahoma City, "	Motor tires	C&EI	132	23	109	35.4	ACY 48, Sup
19	5/14/17	Monaca, Pa.	Tulsa, "	Iron pipe	TStL&W	57.6	23.6	34	23.6	P&LE 1690,
20	5/14/17	Pittsburgh, "	Okmulgee, "	W. pipe	PCC&StL	59.1	23.6	35.5	23.6	PCC&StL P-
21	5/14/17	N. Flint, Mich.	Oklahoma City, "	Autos	C&EI	172.5	53.1	119.4	53.1	PM 3441
22	5/15/17	Steubenville, Ohio	Sapulpa, "	W. pipe	PCC&StL	58.6	23.6	35	23.6	PCC&StL P-
23	5/17/17	So. Lorain, "	Okmulgee, "	"	Wabash	55.9	20.6	35.3	20.6	LS&MS A-32
24	5/17/17	Youngstown, "	Tulsa, "	Steel billets	"	8.48 Gross ton	3.48 Gross ton	5.00 Gross ton	3.48 Gross ton	PennCo F-66
25	5/17/17	Pittsburgh, Pa.	Kiefer, "	W. pipe	B&O	58.6	23.6	35	23.6	B&O 14149
26	5/18/17	So. Lorain, Ohio	Blackwell, "	W. pipe	TStL&W	55.9	20.6	35.3	20.6	LS&MS A-32
27	5/18/17	Detroit, Mich.	Cordell, "	Autos	C&EI	182.5	53.1	129.4	53.1	MC 4640
28	5/19/17	" "	Blackwell, "	"	C&EI	172.5	53.1	119.4	53.1	MC 4640
29	5/22/17	Monessen, Pa.	Ardmore, "	Nails and fencing	CCC&StL	72.1	23.6	48.5	23.6	P&LE 1690,
30	6/11/17	Pittsburgh, "	Tulsa, "	Oil well supplies	PCC&StL	77.6	23.6	54	23.6	PCC&StL P-
31	6/10/17	" "	Blackwell, "	" " "	PCC&StL	85.6	23.6	62	23.6	PCC&StL P-
32	6/1/17	Detroit, Mich.	Tulsa, "	Autos	C&EI	162.5	53.1	109.4	53.1	MC 4640
33	6/1/17	" "	Muskogee, "	Rubber tires	"	1.32	32	100	32	MC 4640
34	6/1/17	Youngstown, Ohio	Chelsea, "	Iron pipe	Southern	49.6	21.6	28	21.6	PCo F-600
35	6/1/17	East Akron, "	Tulsa, "	Soda ash	TStL&W	30.9	13.9	17	13.9	ACY 48, Sup
36	6/1/17	Pittsburgh, Pa.	Okmulgee, "	Oil well supplies	PCC&StL	78.1	23.6	54.5	23.6	PCC&StL P-
37	6/2/17	Pittsburgh, Pa.	Peckham, "	W. I. pipe	CCC&StL	59.1	23.6	59.1	23.6	P&LE 1690,
38	6/2/17	Huff, "	Tulsa, "	Iron pipe and fittings	PCC&StL	57.6	23.6	34	23.6	PaRR GO-57
39	6/2/17	Halgate, Ohio	Tulsa, "	Steel plates	TStL&W	61	21.6	39.4	17.9	B&O 11640
40	6/1/17	Sharpsburg, Pa.	Sapulpa, "	W. pipe	Wabash	58.6	23.6	35	23.6	PCo F-600
41	6/1/17	Lima, Ohio	Chelsea, "	W. pipe	CP&StL	45.9	17.9	28	17.9	LE&W 2612
42	6/1/17	Detroit, Mich.	Muskogee, "	Autos	CCC&StL	162.5	53.1	109.4	53.1	MC 4664
43	6/2/17	Grove City, Pa.	" "	Stationary engines	TStL&W	74.6	23.6	51	23.6	B&LE 439
44	6/2/17	Pittsburgh, "	Peckham, "	W. I. pipe	CCC&StL	59.1	23.6	35.5	23.6	P&LE 1690,
45	6/2/17	Cleveland, Ohio	Muskogee, "	Autos	C&EI	162.5	60.8	101.7	60.8	LS&MS A-32
46	6/2/17	Detroit, Mich.	Durant, "	"	PCC&StL	176.5	53.1	123.4	53.1	MC 4656
47	6/2/17	McKeesport, Pa.	Tulsa, "	W. I. pipe	TStL&W	57.6	23.6	34	23.6	P&LE 1690

(1) Commodity rate.

EXHIBIT No. 73 (Sheet No. 2)

Statement Showing Through Rates and Divisions to Points in Oklahoma from Points East of the Mississippi River in the Year 1917

Rates in cents per 100 pounds (except as noted)

Origin point	Destination	Commodity (carload)	Carrier at E. St. Louis, Ill., from whom received	Through rate and proportion east and west of E. St. Louis, Ill.			Rate and tariff authority for local rate to East St. Louis, Ill.		Class rate applied to E. St. Louis, Ill.
				Thru	East	West	Rate	Tariff and I. C. C.	
rpsburg, Pa.	Tulsa, Okla.	Wrought iron pipe	C&EI	57.6	23.6	34	23.6	PCo F-600	5th
Keesport, Pa.	Tulsa, "	Pipe	"	57.6	23.6	34	23.6	P&LE 1690, Sup. 16	(1)
ver Falls, Pa.	Oklahoma City, Okla.	Cork waste	CCC&StL	106.2	27.3	78.9	23.6	" 1810	5th
roit, Mich.	Muskogee, "	Autos	C&EI	162.5	53.1	109.4	53.1	MC 4640	110% of 1st
Flint, Mich.	Okmulgee, "	"	"	162.5	53.1	109.4	53.1	PM 3441	110% of 1st
thwest, Pa.	Tulsa, "	Iron pipe	CCC&StL	57.6	23.6	34	25.1	PaRR GO-5723	(1)
on, Ohio	Oklahoma City, "	Motor tires	C&EI	132	23	109	35.4	ACY 48, Sup. 9	3rd
naca, Pa.	Tulsa, "	Iron pipe	TStL&W	57.6	23.6	34	23.6	P&LE 1690, Sup. 16	(1)
sburgh, "	Okmulgee, "	W. pipe	PCC&StL	59.1	23.6	35.5	23.6	PCC&StL P-590	5th
Flint, Mich.	Oklahoma City, "	Autos	C&EI	172.5	53.1	119.4	53.1	PM 3441	110% of 1st
benville, Ohio	Sapulpa, "	W. pipe	PCC&StL	58.6	23.6	35	23.6	PCC&StL P-590	5th
Lorain, "	Okmulgee, "	"	Wabash	55.9	20.6	35.3	20.6	LS&MS A-3224	5th
ngstown, "	Tulsa, "	Steel billets	"	8.48 Gross ton	3.48 Gross ton	5.00 Gross ton	3.48 Gross ton	PennCo F-666	(1)
sburgh, Pa.	Kiefer, "	W. pipe	B&O	58.6	23.6	35	23.6	B&O 14149	5th
Lorain, Ohio	Blackwell, "	W. pipe	TStL&W	55.9	20.6	35.3	20.6	LS&MS A-3204	5th
roit, Mich.	Cordell, "	Autos	C&EI	182.5	53.1	129.4	53.1	MC 4640	110% of 1st
"	Blackwell, "	"	C&EI	172.5	53.1	119.4	53.1	MC 4640	110% of 1st
nessen, Pa.	Ardmore, "	Nails and fencing	CCC&StL	72.1	23.6	48.5	23.6	P&LE 1690, Sup. 16	(1)
sburgh, "	Tulsa, "	Oil well supplies	PCC&StL	77.6	23.6	54	23.6	PCC&StL P-590	5th
"	Blackwell, "	" " "	PCC&StL	85.6	23.6	62	23.6	PCC&StL P-590	5th
roit, Mich.	Tulsa, "	Autos	C&EI	162.5	53.1	109.4	53.1	MC 4640	110% of 1st
"	Muskogee, "	Rubber tires	"	1.32	32	100	32	MC 4640	3rd
ngstown, Ohio	Chelsea, "	Iron pipe	Southern	49.6	21.6	28	21.6	PCo F-600	5th
Akron, "	Tulsa, "	Soda ash	TStL&W	30.9	13.9	17	13.9	ACY 48, Sup. 9	85% of 6th
sburgh, Pa.	Okmulgee, "	Oil well supplies	PCC&StL	78.1	23.6	54.5	23.6	PCC&StL P-590	5th
sburgh, Pa.	Peckham, "	W. I. pipe	CCC&StL	59.1	23.6	59.1	23.6	P&LE 1690, Sup. 16	(1)
, "	Tulsa, "	Iron pipe and fittings	PCC&StL	57.6	23.6	34	23.6	PaRR GO-5723	(1)
gate, Ohio	Tulsa, "	Steel plates	TStL&W	61	21.6	39.4	17.9	B&O 11640	5th
rpsburg, Pa.	Sapulpa, "	W. pipe	Wabash	58.6	23.6	35	23.6	PCo F-600	5th
a, Ohio	Chelsea, "	W. pipe	CP&StL	45.9	17.9	28	17.9	LE&W 2612	5th
roit, Mich.	Muskogee, "	Autos	CCC&StL	162.5	53.1	109.4	53.1	MC 4664	110% of 1st
ve City, Pa.	" "	Stationary engines	TStL&W	74.6	23.6	51	23.6	B&LE 439, Sup. 10	5th
sburgh, "	Peckham, "	W. I. pipe	CCC&StL	59.1	23.6	35.5	23.6	P&LE 1690, Sup. 16	(1)
veland, Ohio	Muskogee, "	Autos	C&EI	162.5	60.8	101.7	60.8	LS&MS A-3224	110% of 1st
roit, Mich.	Durant, "	"	PCC&StL	176.5	53.1	123.4	53.1	MC 4656	110% of 1st
Keesport, Pa.	Tulsa, "	W. I. pipe	TStL&W	57.6	23.6	34	23.6	P&LE 1690	(1)

[fol. 1292]

EXHIBIT No. 73 (Sheet No. 3)

Statement Showing Through Rates and Divisions to Points in Missouri from Points East of the Mississippi River in the Year 19

Rates in cents per 100 pounds

Item	Date rebilled St. Louis, Mo.	Origin point		Destination		Commodity (carload)	Carrier at E. St. Louis, Ill., from whom received	Through rate and proportion east and west of E. St. Louis, Ill.			Rate and t for loca East St.	
								Thru	East	West	Rate	Ta
1	6/1/17	Detroit,	Mich.	Valley Park,	Mo.	Soda ash	TStL&W	13.5	12.5	1	12.5	MC 4
2	6/1/17	East Akron,	Ohio	Crystal City,	"	Soda ash	TStL&W	16.9	13.9	3	13.9	AC&Y
6	5/14/17	Springfield,	Ohio	Kansas City,	"	Agricultural implements	PCC&StL	38.3	16.3	22	16.3	PCC&
8	5/7/17	South Bend,	Ind.	Joplin,	"	Tables	PCC&StL	44	20	24	20	Vand

EXHIBIT No. 73 (Sheet No. 3)

Statement Showing Through Rates and Divisions to Points in Missouri from Points East of the Mississippi River in the Year 1917

Rates in cents per 100 pounds

Origin point		Destination		Commodity (carload)	Carrier at E. St. Louis, Ill., from whom received	Through rate and proportion east and west of E. St. Louis, Ill.			Rate and tariff authority for local rate to East St. Louis, Ill.		Class rate applied to E. St. Louis, Ill.
						Thru	East	West	Rate	Tariff and I. C. C.	
Detroit,	Mich.	Valley Park,	Mo.	Soda ash	TStL&W	13.5	12.5	1	12.5	MC 4647	85% of 6th
East Akron,	Ohio	Crystal City,	"	Soda ash	TStL&W	16.9	13.9	3	13.9	AC&Y 48, Sup. 9	85% of 6th
Springfield,	Ohio	Kansas City,	"	Agricultural implements	PCC&StL	38.3	16.3	22	16.3	PCC&StL P-590	5th
South Bend,	Ind.	Joplin,	"	Tables	PCC&StL	44	20	24	20	Vandalia 2748	4th

EXHIBIT NO. 74

WITNESS - NASH

I.C.C. DOCKET 16697

CHICAGO, ROCK ISLAND & PACIFIC RY.

vs

BALTIMORE & OHIO RY. CO., ET AL.

STATEMENT SHOWING BASIS FOR CONSTRUCTING RATES FROM CENTRAL FREIGHT ASSOCIATION TERRITORY TO IOWA CITIES

RATES IN CENTS PER 100 POUNDS.

FROM	1		2		3		4		5		6		R-25		R-26		TO	FROM	1		2		3		4		5		A		B		C		D		E	
	A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B			A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B
		97.5		83		65.5		49		34		27.5		70.5		52.5	Chicago.....Ill.			91.5		73		55		41.5		32.5		36		30.5		26		21		18.5
		110.5		94		74		55.5		38.5		31		80		59	Peoria.....Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	E.Dubuque....Ill.			88		64.5		49		38.5		30.5		36.5		29.5		25		20.5		17
		122.5		104		82		61.5		43		34.5		88.5		65.5	Dubuque.....Ia.	48.5	88		36.5	64.5	27.5	49	21	38.5	17	30.5	20.5	36.5	16	29.5	12.5	25	11	20.5	9	17
		122.5		104		82		61.5		43		34.5		88.5		65.5	Savanna.....Ill.			88		64.5		49		38.5		30.5		36.5		29.5		25		20.5		17
		122.5		104		82		61.5		43		34.5		88.5		65.5	Sabula.....Ia.	48.5	70.5		36.5	52	27.5	41.5	21	32.5	17	26	20.5	28	16	23	12.5	19.5	11	16	9	14
		122.5		104		82		61.5		43		34.5		88.5		65.5	E.Clinton....Ill.			83		59.5		45		37		29.5		33.5		26		22.5		19		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Clinton.....Ia.	48.5	83		36.5	59.5	27.5	45	21	37	17	29.5	20.5	33.5	16	26	12.5	22.5	11	19	9	15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Rock Island..Ill.			76		55		42		34		27.5		30.5		24		20.5		17.5		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Davenport.....Ia.	45	76		33.5	55	25.5	42	19.5	34	15.5	27.5	20.5	30.5	16	24	12.5	20.5	11	17.5	9	15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Keithsburg...Ill.			76		55		42		34		27.5		30.5		24		20.5		17.5		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	W.Keithsburg..Ia.	48.5	55		36.5	41.5	27.5	32.5	21	25	17	20.5	20.5	21	16	17.5	12.5	15	11	12.5	9	10.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	E.Burlington.Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
PITTSBURG-BUFFALO		122.5		104		82		61.5		43		34.5		88.5		65.5	Burlington....Ia.	48.5	-		36.5	-	27.5	-	21	-	17	-	20.5	-	16	-	12.5	-	11	-	9	-	
		122.5		104		82		61.5		43		34.5		88.5		65.5	E.Ft.Madison.Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Ft.Madison....Ia.			55		41.5		32.5		25		20.5		21		17.5		15		12.5		10.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Hamilton.....Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Keokuk.....Ia.			61		45.5		35		27.5		23		24.5		20.5		16		14		11.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Quincy.....Ill.			76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	W.Quincy.....Mo.			76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	E.Hannibal...Ill.			76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Hannibal.....Mo.	48.5	76		36.5	59.5	27.5	48.5	21	35	17	27.5	20.5	33.5	16	27.5	12.5	23	11	19	9	15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	E.Louisiana..Ill.			87		67		53		39.5		29.5		34		28		24		19		17
		122.5		104		82		61.5		43		34.5		88.5		65.5	Louisiana.....Mo.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
		122.5		104		82		61.5		43		34.5		88.5		65.5	Alton.....Ill.			87		67		53		39.5		29.5		34		28		24		19		17
		122.5		104		82		61.5		43		34.5		88.5		65.5	W.Alton.....Mo.			87		67		53		39.5		29.5		34		28		24		19		17
		122.5		104		82		61.5		43		34.5		88.5		65.5	E.St.Louis...Ill.	83.5	87		62.5	67	48.5	53	36.5	39.5	29.5	29.5	33.5	34	27.5	28	23	24	18.5	19	15.5	17	
		122.5		104		82		61.5		43		34.5		88.5		65.5	St.Louis.....Mo.			87		67		53		39.5		29.5		34		28		24		19		17

B.T.Jones Trf. No. 219-A I.C.C. No. 1534.

A - Proportional Rates.

B - Local Rates.

C.B.& Q. Trf. 5500-F, I.C.C. No. 15915.
Wabash Trf. I.C.C. No. 5605.
Wabash Trf. D-12800 I.C.C. No. 5668.
C.M.& St.P. Trf. 10000-E, I.C.C. No. B-4926.
E.E.Boyds Trf. 160-C,I.C.C.No.A-1489.
M.& St.L.Trf. 303-E,I.C.C.No. B-572.
C.G.W. Trf. 20-E,I.C.C.No.5141.
C.R.I.& P. Trf. 28540-J,I.C.C.No.C-11425.

RATES IN CENTS PER 100 POUNDS.

1		2		3		4		5		6		R-25		R-26		TO	FROM	1		2		3		4		5		A		B		C		D		E		TO
A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B			A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B	
	97.5		83	65.5		49		34		27.5		70.5		52.5		Chicago.....Ill.			91.5		73		55		41.5		32.5		36		30.5		26		21		18.5	
	110.5		94	74		55.5		38.5		31		80		59		Peoria.....Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		E.Dubuque....Ill.			88		64.5		49		38.5		30.5		36.5		29.5		25		20.5		17	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Dubuque.....Ia.		48.5	88	36.5	64.5	27.5	49	21	38.5	17	30.5	20.5	36.5	16	29.5	12.5	25	11	20.5	9	17	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Savanna.....Ill.			88		64.5		49		38.5		30.5		36.5		29.5		25		20.5		17	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Sabula.....Ia.		48.5	70.5	36.5	52	27.5	41.5	21	32.5	17	26	20.5	28	16	23	12.5	19.5	11	16	9	14	
	122.5		104	82		61.5		43		34.5		88.5		65.5		E.Clinton....Ill.			83		59.5		45		37		29.5		33.5		26		22.5		19		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Clinton.....Ia.		48.5	83	36.5	59.5	27.5	45	21	37	17	29.5	20.5	33.5	16	26	12.5	22.5	11	19	9	15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Rock Island..Ill.			76		55		42		34		27.5		30.5		24		20.5		17.5		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Davenport.....Ia.		45	76	33.5	55	25.5	42	19.5	34	15.5	27.5	20.5	30.5	16	24	12.5	20.5	11	17.5	9	15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Keithsburg...Ill.			76		55		42		34		27.5		30.5		24		20.5		17.5		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		W.Keithsburg..Ia.		48.5	55	36.5	41.5	27.5	32.5	21	25	17	20.5	20.5	21	16	17.5	12.5	15	11	12.5	9	10.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		E.Burlington.Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5	
ALO	122.5		104	82		61.5		43		34.5		88.5		65.5		Burlington....Ia.		48.5	-	36.5	-	27.5	-	21	-	17	-	20.5	-	16	-	12.5	-	11	-	9	-	ES MOINES....IA.
	122.5		104	82		61.5		43		34.5		88.5		65.5		E.Ft.Madison.Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Ft.Madison....Ia.			55		41.5		32.5		25		20.5		21		17.5		15		12.5		10.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Hamilton.....Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Keokuk.....Ia.			61		45.5		35		27.5		23		24.5		20.5		16		14		11.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Quincy.....Ill.			76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		W.Quincy.....Mo.			76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		E.Hannibal...Ill.			76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Hannibal.....Mo.		48.5	76	36.5	59.5	27.5	48.5	21	35	17	27.5	20.5	33.5	16	27.5	12.5	23	11	19	9	15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		E.Louisiana..Ill.			87		67		53		39.5		29.5		34		28		24		19		17	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Louisiana.....Mo.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5	
	122.5		104	82		61.5		43		34.5		88.5		65.5		Alton.....Ill.			87		67		53		39.5		29.5		34		28		24		19		17	
	122.5		104	82		61.5		43		34.5		88.5		65.5		W.Alton.....Mo.			87		67		53		39.5		29.5		34		28		24		19		17	
	122.5		104	82		61.5		43		34.5		88.5		65.5		E.St.Louis...Ill.		83.5	87	62.5	67	48.5	53	36.5	39.5	29.5	29.5	33.5	34	27.5	28	23	24	18.5	19	15.5	17	
	122.5		104	82		61.5		43		34.5		88.5		65.5		St.Louis.....Mo.			87		67		53		39.5		29.5		34		28		24		19		17	

B.T.Jones Trf. No. 219-A I.C.C. No. 1534.

A - Proportional Rates.

B - Local Rates.

C.B.& Q. Trf. 5500-F, I.C.C. No. 15915.
Wabash Trf. I.C.C. No. 5605.
Wabash Trf. D-12800 I.C.C. No. 5668.
C.M.& St.P. Trf. 10000-E, I.C.C. No. B-4926.
E.S.Boyds Trf. 160-C,I.C.C.No.A-1489.
M.& St.L.Trf. 303-E,I.C.C.No. B-572.
C.G.W. Trf. 20-E,I.C.C.No.5141.
C.R.I.& P. Trf. 28540-J,I.C.C.No.C-11425.

RATES IN CENTS PER 100 POUNDS.

FROM	1		2		3		4		5		6		R-25		R-26		TO	FROM	1		2		3		4		5		A		B		C		D		Σ	
		B	A	B	A	B	A	B	A	B	A	B	A	B	A	B			A	B	A	B	/	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B
		142		124.5		94.5		66		56.5		47.5		106		75.5	Chicago.....Ill.			91.5		73		55		41.5		32.5		36		30.5		26		21		18.5
		156		137		104		72.5		62		52.5		116.5		-	Peoria.....Ill.			83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
																	E.Dubuque.....Ill.			88		64.5		49		38.5		30.5		36.5		29.5		25		20.5		17
166	166	145.5	145.5	110.5	110.5	77	77	66	66	55.5	55.5	123.5	123.5	88.5	88.5		Dubuque.....Ia.	48.5	88	36.5	64.5	27.5	49	21	38.5	17	30.5	20.5	36.5	16	29.5	12.5	25	11	20.5	9	17
	166		145.5		110.5		77		66		55.5		123.5		88.5		Savanna .....Ill.		88		64.5		49		38.5		30.5		36.5		29.5		25		20.5		17
166	166	145.5	145.5	110.5	110.5	77	77	66	66	55.5	55.5	123.5	123.5	88.5	88.5		Sabula.....Ia.	48.5	70.5	36.5	52	27.5	41.5	21	32.5	17	26	20.5	28	16	23	12.5	19.5	11	16	9	14
	166		145.5		110.5		77		66		55.5		123.5		88.5		E.Clinton.....Ill.		83		59.5		45		37		29.5		33.5		26		22.5		19		15.5
166	166	145.5	145.5	110.5	110.5	77	77	66	66	55.5	55.5	123.5	123.5	88.5	88.5		Clinton.....Ia.	48.5	83	36.5	59.5	27.5	45	21	37	17	29.5	20.5	33.5	16	26	12.5	22.5	11	19	9	15.5
	166		145.5		110.5		77		66		55.5		123.5		88.5		Rock Island...Ill.		76		55		42		34		27.5		30.5		24		20.5		17.5		15.5
	166		145.5		110.5		77		66		55.5		123.5		88.5		Davenport.....Ia	45	76	33.5	55	25.5	42	19.5	34	15.5	27.5	20.5	30.5	16	24	12.5	20.5	11	17.5	9	15.5
	166		145.5		110.5		77		66		55.5		123.5		88.5		Keithsburg....Ill.		76		55		42		34		27.5		30.5		24		20.5		17.5		15.5
	166		145.5		110.5		77		66		55.5		123.5		88.5		E.Keithsburg...Ia.	48.5	55	36.5	41.5	27.5	32.5	21	25	17	20.5	20.5	21	16	17.5	12.5	15	11	12.5	9	10.5
	166		145.5		110.5		77		66		55.5		123.5		88.5		E.Burlington..Ill.		83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
	166	-	145.5	-	110.5	-	77	-	66	-	55.5	-	123.5	-	88.5	-	Burlington.....Ia.	48.5	-	36.5	-	27.5	-	21	-	17	-	20.5	-	16	-	12.5	-	11	-	9	-
		166		145.5		110.5		77		66		55.5		123.5		88.5	E.Ft.Madison..Ill.		83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	Ft.Madison.....Ia.		55		41.5		32.5		25		20.5		21		17.5		15		12.5		10.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	Hamilton.....Ill.		83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	Keokuk.....Ia.		61		45.5		35		27.5		23		24.5		20.5		16		14		11.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	Quincy.....Ill.		76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	W.Quincy.....Mo.		76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	E.Hannibal....Ill.		76		59.5		48.5		35		27.5		33.5		27.5		23		19		15.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	Hannibal.....Mo.	48.5	76	36.5	59.5	27.5	48.5	21	35	17	27.5	20.5	33.5	16	27.5	12.5	23	11	19	9	15.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	E.Louisiana...Ill.		87		67		53		39.5		29.5		34		28		24		19		17
		166		145.5		110.5		77		66		55.5		123.5		88.5	Louisiana.....Mo.		83.5		59.5		50.5		38.5		29.5		34		28		24		19		15.5
		166		145.5		110.5		77		66		55.5		123.5		88.5	Alton.....Ill.		87		67		53		39.5		29.5		34		28		24		19		17
		166		145.5		110.5		77		66		55.5		123.5		88.5			87		67		53		39.5		29.5		34		28		24		19		17
		-		-		-		-		-		-		-		-	W.Alton.....Mo.																						
		166		145.5		110.5		77		66		55.5		123.5		88.5	E.St.Louis....Ill.	83.5	87	62.5	67	48.5	53	36.5	39.5	29.5	29.5	33.5	34	27.5	28	23	24	18.5	19	15.5	17
		166		145.5		110.5		77		66		55.5		123.5		88.5	St.Louis.....Mo.		87		67		53		39.5		29.5		34		28		24		19		17

NEW YORK, N.Y.

Illinois I.C.C. No. A-79.

A - Proportional Rates.

B - Local Rates.

C.B.& Q. Trf. 8800-F, I.C.C. No. 15915.
Wabash Trf. I.C.C. No. 5605.
Wabash Trf. D-12800, I.C.C. No. 5668.
C.M.& St.P. Trf. 10000-E, I.C.C. No. B-4926.
I.B.Boyds Trf. 160-C, I.C.C. No. A-1489.
M.& St.L. Trf. 300-E, I.C.C. No. B-572.
C.G.W. Trf. 20-E, I.C.C. No. 5141.
C.R.I.& P. Ry. Trf. 28540-J, I.C.C. No. C-11425.

RATES IN CENTS PER 100 POUNDS.

1		2		3		4		5		6		B-25		B-26		TO	FROM
A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B		
	142		124.5		94.5		66		56.5		47.5		106		75.5	Chicago	Ill.
	134		117		104		72.5		62		52.5		116.5		-	Peoria	Ill.

I.C.C.DOCKET 16697
EXHIBIT 75
WITNESS - NASH

I.C.C. Docket 16697
EXHIBIT 75
WITNESS: Nash

STATEMENT SHOWING COMPARISON OF PRESENT SPECIFIC RATES FROM ST. LOUIS, MO. TO REPRESENTATIVE SOUTHWEST MISSOURI POINTS WITH RATES BASED ON MISSOURI STATE MILEAGE$ SCALE BASED ON DISTANCES TO THESE POINTS.

RATES IN CENTS PER ONE HUNDRED POUNDS

FROM ST.LOUIS,MO. TO	DISTANCE		CLASS 1	2	3	4	5	A	B	C	D	E
Springfield, Missouri.	240	(2) Specific Rate	94	79	61	48½	38½	43	36	26	23	20½
		(1) Specific Rate	94	79	64½	48½	38½	43	36	26	23	20½
		Mo. State Scale	102	87	70	61	50½	56½	45½	36	27½	20½
Aurora, Missouri.	270	Specific Rate	106	87	69	52	41½	46½	38½	27½	23	20½
		Mo. State Scale	106	91½	74½	65½	55	59½	48½	38½	29½	22
Joplin, Missouri.	333	Specific Rate	112½	97	76	61	43	50½	42	33	26	23
		Mo. State Scale	117½	100½	83½	71½	59½	65½	55	42	33	24½
Liberal, Missouri.	317	Specific Rate	112½	97	69	48½	41½	40½	38½	30½	23	20½
		Mo. State Scale	114½	97	82	70	57½	64	53½	41½	32½	24

(1) - Interstate.

(2) - Intrastate.

Distances via Frisco Direct.

W.T.L. Tariff 18-K, Boyd's I. C. C. A-1357.

St. L. - S.F. Ry. Tariff No. 1180-G, I. C. C. 8145.

EXHIBIT NO. 76

WITNESS - NASH

I.C.C. DOCKET 16697

CHICAGO, ROCK ISLAND & PACIFIC RY.

vs.

BALTIMORE & OHIO RY.CO., ET.AL.

STATEMENT SHOWING COMPARISON OF DIFFERENTIALS, LOCAL RATES AND ARBITRARIES EAST OF E. ST. LOUIS ON TRAFFIC FROM C.F.A. TERRITORY TO SOUTHWEST.

IN CENTS PER 100 POUNDS.

FROM	TO	CLASSES 1	2	3	4	5	COMMODITIES Iron and Steel Articles viz Merchant Iron, C.L.	Iron Pipe C.L.	Canned Goods C.L.	Furniture, C.L.	Wrapping Paper, C.L.
Pittsburg.....Pa. (Pittsburg Terry.)	Differential over ST. LOUIS										
	Arkansas.	79	71.5	51	36.5	30	30	30	.....	.....	.....
	Texas.	79	71.5	51	36.5	30	29	29	.....	.....	.....
	Louisiana.	79	71.5	51	36.5	30	30	30	.....	.....	.....
	Oklahoma:-										
	Tulsa.	84	69.5	56.5	41	34	(A) 29	(A) 27.5	.....	.....	.....
	Okla. City.	76.5	68.5	48.5	35.5	28.5	(A) 29	(A) 27.5	.....	.....	.....
	Enid.	76.5	68.5	54	35.5	28.5	(A) 29	(A) 27.5	.....	.....	.....
	Ardmore.	76.5	68.5	49	34.5	28	(A) 29	(A) 27.5	.....	.....	.....
	Snyder.	76.5	68.5	49	34.5	28	(A) 29	(A) 27.5	.....	.....	.....
	Local to St.Louis-E.St.Louis.	122.5	104	82	61.5	43	43	43	.....	.....	.....
	Arbitrary to E.St. Louis.	88.5	77.5	59.5	41	35.5	35.5	35.5	.....	.....	.....
Detroit.....Mich. (Det-Cleve. Terry.)	Differential over ST. LOUIS										
	Arkansas.	63.5	56	43	30.5	25	.....	.....	25	25	.....
	Texas.	63.5	56	43	30.5	25	.....	.....	25	(A) 23.5	.....
	Louisiana.	63.5	56	43	30.5	25	.....	.....	25	25	.....
	Oklahoma:-										
	Tulsa.	68.5	53.5	49	34.5	29	.....	.....	(A) 24	(A) 40.5	.....
	Okla. City.	61.5	53.5	41	29	24	.....	.....	(A) 24	(A) 24	.....
	Enid.	61.5	53.5	46.5	29	24	.....	.....	(A) 24	(A) 24	.....
	Ardmore.	60.5	54	41.5	28.5	23.5	.....	.....	(A) 24	(A) 24	.....
	Snyder.	60.5	54	41.5	28.5	23.5	.....	.....	(A) 24	(A) 24	.....
	Local rate to St.Louis-E.St.Louis.	100.5	85.5	67.5	50.5	35	.....	.....	35	67.5	.....
	Arbitrary to E.St. Louis.	72.5	62.5	48	33	28.5	.....	.....	28.5	48	.....
Cincinnati.....Ohio (Cin. Terry.)	Differential over ST. LOUIS										
	Arkansas.	33	26.5	20	16	11.5	11.5	.....	.....	.....	.....
	Texas.	33	26.5	20	16	11.5	11	.....	.....	.....	.....
	Louisiana.	33	26.5	20	16	11.5	11.5	.....	.....	.....	.....
	Oklahoma:-										
	Tulsa	38	30.5	26	21	15	(A) 10	.....	.....	.....	.....
	Okla. City.	30.5	30	18	14.5	10	(A) 10	.....	.....	.....	.....
	Enid.	30.5	30	23.5	14.5	10	(A) 10	.....	.....	.....	.....
	Ardmore.	30	30.5	18	14	9.5	(A) 10	.....	.....	.....	.....
	Snyder.	30	30.5	18	14	9.5	(A) 10	.....	.....	.....	.....
	Loca. Rate to St.Louis-E.St.Louis.	85	72.5	57	42.5	30	30	.....	.....	.....	.....
	Arbitrary to E.St. Louis.	65	54.5	40	27.5	24	24	.....	.....	.....	.....
Indianapolis.....Ind. (Cin. Terry.)	Differential over ST. LOUIS										
	Arkansas.	33	26.5	20	16	11.5	.....	.....	11.5	14.5	(A) 12.5
	Texas.	33	26.5	20	16	11.5	.....	.....	(A) 11.5	(A) 12.5	(A) 12.5
	Louisiana.	33	26.5	20	16	11.5	.....	.....	11.5	14.5	(A) 12.5
	Oklahoma:-										
	Tulsa.	38	30.5	26	21	15	.....	.....	(A) 10.5	(A) 33.5	.....
	Okla. City.	30.5	30	18	14.5	10	.....	.....	(A) 10.5	(A) 17	.....
	Enid.	30.5	30	23.5	14.5	10	.....	.....	(A) 10.5	(A) 17	.....
	Ardmore.	30	30.5	18	14	9.5	.....	.....	(A) 10.5	(A) 17	.....
	Snyder.	30	30.5	18	14	9.5	.....	.....	(A) 10.5	(A) 17	.....
	Loca. Rate to St.Louis-E.St.Louis.	77.5	66	52	39	27	.....	.....	27	52	(C) 21.5
	Arbitrary to E.St. Louis.	60	51	38	25.5	21.5	.....	.....	21.5	38	(C) 16.5

(A) Thru Rates. Figure shown represents amount over St.Louis rates. (B) 90% of 6th Class. (C) 6th Class.

TARIFF AND DIVISION AUTHORITIES:-

S.W.L.D-S No. 2 (C.F.A.D.S.No.96).
S.W.L.Trf. 45-P, F.A.Lelands I.C.C.No.1644.
S.W.L.Trf. 15-L, F.A.Lelands I.C.C.No.1562.
S.W.L.Trf. 1-O, F.A.Lelands I.C.C.No.1551.
S.W.L.Trf. 58-O,F.A.Lelands, I.C.C.No.1688.
S.W.L.Trf. No.114-A,F.A.Lelands I.C.C.No.1645.
C.F.A.Trf.No.219-A,B.T.Jones,I.C.C.No.1534.
C.F.A.Trf.No.223, B.T.Jones,I.C.C.No.938.
C.F.A.Trf.No.224, B.T.Jones I.C.C.No
C.F.A.Trf.No.231, B.T.Jones I.C.C.No
C.F.A.Trf.No.130-P,B.T.Jones I.C.C.

IN CENTS PER 100 POUNDS.

	TO		CLASSES 1	2	3	4	5	COMMODITIES Iron and Steel Articles viz Merchant Iron, C.L.	Iron Pipe C.L.	Canned Goods C.L.	Furniture, C.L.	Wrapping Paper, C.L.	Roofing Material C.L.
.....Pa.	Differential over ST. LOUIS	Arkansas.	79	71.5	51	36.5	30	30	30	.....	.....	.....	.....
.)		Texas.	79	71.5	51	36.5	30	29	29	.....	.....	.....	.....
		Louisiana,	79	71.5	51	36.5	30	30	30	.....	.....	.....	.....
		Oklahoma:-											
		Tulsa.	84	69.5	56.5	41	34	(A) 29	(A) 27.5	.....	.....	.....	.....
		Okla. City.	76.5	68.5	48.5	35.5	28.5	(A) 29	(A) 27.5	.....	.....	.....	.....
		Enid.	76.5	68.5	54	35.5	28.5	(A) 29	(A) 27.5	.....	.....	.....	.....
		Ardmore.	76.5	68.5	49	34.5	28	(A) 29	(A) 27.5	.....	.....	.....	.....
		Snyder.	76.5	68.5	49	34.5	28	(A) 29	(A) 27.5	.....	.....	.....	.....
	Local to St.Louis-E.St.Louis.		122.5	104	82	61.5	43	43	43	.....	.....	.....	.....
	Arbitrary to E.St. Louis.		88.5	77.5	59.5	41	35.5	35.5	35.5	.....	.....	.....	.....
.....Mich.	Differential over ST. LOUIS	Arkansas.	63.5	56	43	30.5	25	.....	.....	25	25	.....	.....
y.)		Texas.	63.5	56	43	30.5	25	.....	.....	25	(A) 23.5	.....	.....
		Louisiana.	63.5	56	43	30.5	25	.....	.....	25	25	.....	.....
		Oklahoma:-											
		Tulsa.	68.5	53.5	49	34.5	29	.....	.....	(A) 24	(A) 40.5	.....	.....
		Okla. City.	61.5	53.5	41	29	24	.....	.....	(A) 24	(A) 24	.....	.....
		Enid.	61.5	53.5	46.5	29	24	.....	.....	(A) 24	(A) 24	.....	.....
		Ardmore.	60.5	54	41.5	28.5	23.5	.....	.....	(A) 24	(A) 24	.....	.....
		Snyder.	60.5	54	41.5	28.5	23.5	.....	.....	(A) 24	(A) 24	.....	.....
	Local rate to St.Louis-E.St.Louis.		100.5	85.5	67.5	50.5	35	.....	.....	35	67.5	.....	.....
	Arbitrary to E.St. Louis.		72.5	62.5	48	33	28.5	.....	.....	28.5	48	.....	.....
.....Ohio	Differential over ST. LOUIS	Arkansas.	33	26.5	20	16	11.5	11.5	.....	.....	.....	.....	11.5
		Texas.	33	26.5	20	16	11.5	11	.....	.....	.....	.....	11.5
		Louisiana.	33	26.5	20	16	11.5	11.5	.....	.....	.....	.....	11.5
		Oklahoma:-											
		Tulsa	38	30.5	26	21	15	(A) 10	.....	.....	.....	.....	(A) 11.5
		Okla. City.	30.5	30	18	14.5	10	(A) 10	.....	.....	.....	.....	(A) 11.5
		Enid.	30.5	30	23.5	14.5	10	(A) 10	.....	.....	.....	.....	(A) 11.5
		Ardmore.	30	30.5	18	14	9.5	(A) 10	.....	.....	.....	.....	(A) 11.5
		Snyder.	30	30.5	18	14	9.5	(A) 10	.....	.....	.....	.....	(A) 11.5
	Local Rate to St.Louis-E.St.Louis.		85	72.5	57	42.5	30	30	.....	.....	.....	.....	(B) 21.5
	Arbitrary to E.St. Louis.		65	54.5	40	27.5	24	24	.....	.....	.....	.....	(B) 17.5
.....Ind.	Differential over ST. LOUIS	Arkansas.	33	26.5	20	16	11.5	.....	.....	11.5	14.5	(A) 12.5	.....
		Texas.	33	26.5	20	16	11.5	.....	.....	(A) 11.5	(A) 12.5	(A) 12.5	.....
		Louisiana.	33	26.5	20	16	11.5	.....	.....	11.5	14.5	(A) 12.5	.....
		Oklahoma:-											
		Tulsa.	38	30.5	26	21	15	.....	.....	(A) 10.5	(A) 33.5	.....	.....
		Okla. City.	30.5	30	18	14.5	10	.....	.....	(A) 10.5	(A) 17	.....	.....
		Enid.	30.5	30	23.5	14.5	10	.....	.....	(A) 10.5	(A) 17	.....	.....
		Ardmore.	30	30.5	18	14	9.5	.....	.....	(A) 10.5	(A) 17	.....	.....
		Snyder.	30	30.5	18	14	9.5	.....	.....	(A) 10.5	(A) 17	.....	.....
	Local Rate to St.Louis-E.St.Louis.		77.5	66	52	39	27	.....	.....	27	52	(C) 21.5	.....
	Arbitrary to E.St. Louis.		60	51	38	25.5	21.5	.....	.....	21.5	38	(C) 16.5	.....

Figure shown represents amount over St.Louis rates. (B) 90% of 6th Class. (C) 6th Class.

ON AUTHORITIES:-

. 2 (C.F.A.D.S.No.96).
6-P, F.A.Lelands. I.C.C.No.1644.
5-L, F.A.Lelands. I.C.C.No.1562.
1-O, F.A.Lelands. I.C.C.No.1551.

S.W.L.Trf. 58-O,F.A.Lelands. I.C.C.No.1688.
S.W.L.Trf. No.114-A,F.A.Lelands I.C.C.No.1645.
C.F.A.Trf.No.219-A,B.T.Jones,I.C.C.No.1534.
C.F.A.Trf.No.223, B.T.Jones,I.C.C.No.938.

C.F.A.Trf.No.224, B.T.Jones I.C.C.No.939.
C.F.A.Trf.No.231, B.T.Jones I.C.C.No.941.
C.F.A.Trf.No.130-P,B.T.Jones I.C.C.No.1594.

EXHIBIT NO. 77

PRESS

I.C.C.DOCKET 16697 C.Docket 16697

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

Statement showing for the year 1924 Railway Operating Revenues, Net Railway Operating Income and Net Ton Miles per Mile of Road, for West Side and East Side Railroads, respectively complainants and defendants in case under I.C.C.Docket 16697.

Road	Railway Operating Revenue per mile of road	Net Railway Operating Income per mile of road	Net ton miles per mile of road	Miles of Road operated
EAST SIDE RAILROADS:				
Baltimore & Ohio R.R.	$ 42381.	$ 7,195.	3,571,428	5,293
Chicago & Alton R.R.	29198.	4,109.	2,285,304	1,058
C. & E. I. R. R.	27582.	1,552.	2,354,478	945
C. B. & Q. R. R.	17293.	3,055.	1,517,436	9,397
C. C. C. & St. L. Ry.	36577.	5,990.	3,308,274	2,398
C. P. & St. L. R. R.	5262.	# 1,007.	246,318	247
Illinois Central R. R.	27904.	4,511.	2,553,582	6,255
Louisville & Nashville R. R.	26864.	4,419.	2,404,620	5,044
Mobile & Ohio R. R.	16714.	3,033.	1,670,058	1,161
New York, Chicago & St.Louis R.R.	31848.	5,657.	3,060,492	1,695
Pennsylvania Lines	60564.	7,326.	4,183,746	10,868
St. Louis-Southwestern Ry.	14815.	2,637.	916,830	1,777
Southern Ry.	20745.	4,432.	1,285,026	6,869
Wabash Ry.	26419.	3,754.	2,175,870	2,524
Weighted average for above East Side Railroads combined	$32593.	$ 4,944.	2,565,150	
WEST SIDE RAILROADS:				
St. Louis-San Francisco Ry.	$ 17453.	$ 4.058.	1,048,224	5,274
Missouri Pacific R. R.	16800.	2,149.	1,409,832	7,337
Missouri-Kansas-Texas R.R.	17498.	3,942.	1,120,326	3,188
Chicago, Rock Island & Pacific Ry.	16213.	2,194.	1,146,678	8,040
Weighted average for above West Side Railroad combined	$ 16900.	2,826.	1,202,364	

Source of information:
Statement 25200 prepared by the Bureau of Statistics of the Interstate Commerce Commission.

# Denotes deficit.

copy of the record of the evidence in the proceeding before the Commission.

James H. Wilkerson, Judge of the District Court of the United States for the Northern District of Illinois.

Chicago, Ills., June 23, 1927.

[fols. 1403-1406] In United States District Court

[Title omitted]

Order Extending Time

For satisfactory reasons appearing to the Court, the time for filing record in this cause in the Supreme Court pursuant to the appeal sued out, is extended until the 7th day of April, 1927.

Albert B. Anderson, Circuit Judge, James H. Wilkerson, District Judge, Adam C. Cliffe, District Judge, Judges in a special court in the District Court of the United States for the Northern District of Illinois.

Chicago, Ill., February 5, 1927.

[fols. 1407 & 1408] In United States District Court

[Title omitted]

Orders Extending Time

Upon application of defendant (appellee), The Chicago, Rock Island & Pacific Railway Company, by its attorneys, in its own behalf and in behalf of other defendants (appellees); and plaintiffs (appellants) having appeared and consented thereto; and for good cause shown,

It is ordered, that the time for filing appellees' præcipe and for presenting the statement of evidence on appeal for objections, amendments, or approval, be, and the same is

hereby, enlarged to and including the 1st day of April, 1927.

James H. Wilkerson, District Judge.

Entered March 5, 1927.

[fols. 1409 & 1410] For satisfactory reasons appearing to the Court, and by consent of the parties hereto, the time for filing the record in this cause in the Supreme Court pursuant to the appeal sued out, is extended to the twelfth day of May, 1927.

Albert B. Anderson, Circuit Judge. Adam C. Cliffe, District Judge.

Entered March 30, 1927.

Consented To:

Morison R. Waite, Elmer A. Smith, Homer T. Dick, Attorneys for Plaintiffs. Blackburn Esterline, Assistant to the Solicitor General, J. Stanley Payne, M. G. Roberts, Wallace T. Hughes, Attorneys for Defendants.

[fols. 1411 & 1412] Order

Upon application of defendants (Appellees) and plaintiffs' (Appellants), and for good cause shown,

It is ordered, That the time for filing Appellees' Præcipe and for presenting the statement of evidence on appeal for objections, amendments or approval, be, and the same is hereby enlarged to and including the twenty-second day of April, 1927.

Albert B. Anderson, Circuit Judge. Adam C. Cliffe, District Judge.

Entered March 30, 1927.

Consented to:

Morison R. Waite, Elmer A. Smith, Homer T. Dick, Attorneys for Plaintiffs. Blackburn Esterline, Assistant to the Solicitor General, J. Stanley Payne, M. G. Roberts, Wallace T. Hughes, Attorneys for Defendants.

Order

[fols. 1413 & 1414] Upon application of defendants (appellees) and plaintiffs (appellants) and for good cause shown,

It is ordered, That the time for filing Appellees' Præcipe and for presenting the statement of evidence on appeal for objections, amendments or approval, be, and the same is hereby enlarged to and including the twenty-ninth day of April, 1927.

James H. Wilkerson, District Judge.

Entered April 20, 1927.

Consented to:

Morison R. Waite, Elmer A. Smith, Homer T. Dick, Attorneys for Plaintiff. Blackburn Esterline, Assistant to the Sol'r General, J. Stanley Payne, M. G. Roberts, Wallace T. Hughes, Attorneys for Defendant.

[fols. 1415 & 1416] For satisfactory reasons appearing to the Court, and by consent of the parties hereto, the time for filing the record in this cause in the Supreme Court pursuant to the appeal sued out, is extended to and including the tenth day of June, 1927.

James H. Wilkerson, District Judge.

Entered Apl. 28, 1927.

Consented to:

Morrison R. Waite, E. A. Smith, D. P. Connell, Homer T. Dick, Solicitors for Plaintiffs and Appellants. Blackburn Esterline, Ass't to the Solicitor General, J. Stanley Payne, Wallace T. Hughes, C. S. Burg, M. G. Roberts, Solicitors for Defendants and Appellees.

[fols. 1417 & 1418] Upon application of defendant (Appellees) and plaintiffs (Appellants) and for good cause shown,

It is ordered, That the time for filing Appellees' Præcipe and for presenting the statement of evidence on appeal for objections, amendments or approval, be, and the same is

hereby enlarged to and including the twentieth day of May, 1927.

James H. Wilkerson, District Judge.

Entered Apl. 28, 1927.

Consented to:

Morison R. Waite, E. A. Smith, D. P. Connell, Homer T. Dick, Solicitors for Plaintiffs and Appellants. Blackburn Esterline, Assistant to the Sol'r General, J. Stanley Payne, Wallace T. Hughes, C. S. Burg, M. G. Roberts, Solicitors for Defendants and Appellees.

[fol. 1419] For satisfactory reasons appearing to the Court, the time for filing the record and returning the citation in this cause in the Supreme Court, pursuant to the appeal sued out, is extended until the 30th day of July, 1927.

James H. Wilkerson, Judge of the District Court of the United States for the Northern District of Illinois.

Chicago, Ill., June 7, 1927.

Approved:

Elmer A. Smith, Homer T. Dick, Charles J. Rixey, Morison R. Waite, Solicitors for Plaintiffs. M. G. Roberts, C. S. Burg, H. H. Larimore, Wallace T. Hughes, Solicitors for Defendant Carriers.

[fol. 1420] In United States District Court

[Title omitted]

Præcipe for Transcript of Record

To the Clerk of the District Court of said Division and District:

In the preparation of the transcript on appeal in the above entitled cause, you will include the following, to-wit:

1. The original bill of complaint, including all exhibits thereto.

2. Order setting cause for hearing on November 29th, 1926, made by Honorable James H. Wilkerson, District Judge, on November 16th, 1926.

3. Answer of the United States of America.

4. Intervention of Interstate Commerce Commission.

5. Answer of Interstate Commerce Commission.

6. Intervention of the Chicago, Rock Island & Pacific Railway Company, et al.

7. Answer of Intervenors, The Chicago, Rock Island and Pacific Railway Company, et al.

8. Order dismissing bill for want of equity of December 8th, 1926.

9. Opinion of judges, if any, filed herein.

10. Petition for appeal.

11. Assignment of errors on appeal.

12. Order allowing appeal, and fixing bond.

13. Citation on appeal and acknowledgment or proof of [fol. 1421] service thereof.

14. Bond on appeal.

15. Condensed statement in narrative form of the evidence.

16. Approval of the Court of said statement of the evidence.

17. Any orders of the Court made in said cause subsequent to December 8th, 1926 not here enumerated.

18. Præcipe for record on appeal and acknowledgment of service thereof.

Morison R. Waite, Charles J. Rixey, Elmer A. Smith, W. A. Northcutt, W. J. Stevenson, Guernsey Orcutt, Homer T. Dick, Frank H. Towner and Silas H. Strawn, L. K. Strasser, D. P. Connell.

[fol. 1422] Clerk's certificate to foregoing transcript paper omitted in printing.

[fols. 1423 & 1424] Citation, in usual form, showing service on Oscar E. Carlstrom, filed February 7, 1927, omitted in printing.

[fols. 1425 & 1426] Citation, in usual form, showing service on Blackburn Esterline et al., filed February 17, 1927, omitted in printing.

[fol. 1427] IN SUPREME COURT OF THE UNITED STATES

STIPULATION AS TO PRINTING RECORD AND EXHIBITS—Filed July 28, 1927

It is hereby stipulated and agreed by and between the parties hereto, acting by their respective counsel, that the Clerk of the Supreme Court in printing the Record herein may omit from such printing the following exhibits, which were attached to and made part of the certified copy of the transcript of testimony introduced at hearings before the Interstate Commerce Commission in the proceeding styled Chicago, Rock Island & Pacific Ry. Co., et al. vs. The Baltimore & Ohio R. R. Co., et al. Docket No. 16697, and transmitted on appeal by the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, as original exhibits pursuant to the stipulation of the parties, and the order of said District Court.

The Exhibits so to be omitted in printing are the fol-
[fol. 1428] lowing:

Exhibit No.	1	Exhibit No.	32	Exhibit No.	43	Exhibit No.	56
"	2	"	33	"	44	"	61
"	3	"	34	"	45	"	62
"	4	"	35	"	46	"	63
"	7	"	36	"	47	"	64
"	8	"	37	"	49	"	65
"	17	"	38	"	51	"	66
"	18	"	39	"	52	"	67
"	28	"	40	"	53	"	68
"	30	"	41	"	54	"	78
"	31	"	42	"	55		

Exhibit Unnumbered—Entitled: "Statement showing data taken from Annual Reports of the Terminal Railroad Association of St. Louis, Merchants Bridge Terminal Rail-

way Co., Wiggins Ferry Company, St. Louis Transfer Railway Co. and East St. Louis Connecting Ry. Co. to the Interstate Commerce Commission for the year ended December 31, 1924."

Exhibit Unnumbered—Entitled: "Bridge Tolls on Through Traffic between East St. Louis, Ill. and St. Louis, Mo."

Exhibit Unnumbered—Pamphlet entitled: Terminal Railroad Association of Saint Louis—Evidence Submitted in the Coal Rate Case Hearing before the Interstate Commerce Commission at Saint Louis, December 15, 16, 17, 18, 1913."

Of the Exhibits so omitted from the printing, counsel for the Appellees shall furnish to the Clerk ten (10) copies of the following Exhibits, which shall be bound in ten binders containing one of each of said Exhibits, for submission to the Judges, to-wit:

Exhibit No.	1	Exhibit No.	52
"	2	"	53
"	3	"	55
"	4	"	56
"	51	"	61
		"	63

Exhibit Unnumbered—Entitled: "Statement showing data taken from Annual Reports of the Terminal Railroad Association of St. Louis, Merchants Bridge Terminal Railway Co., Wiggins Ferry Company, St. Louis Transfer Railway Co. and East St. Louis Connecting Ry. Co. to the Interstate Commerce Commission for the year ended December 31, 1924."

Exhibit Unnumbered—Entitled: "Bridge Tolls on Through Traffic between East St. Louis, Ill. and St. Louis, Mo."

It is further stipulated and agreed that counsel for any of the parties, may in his brief refer to any exhibit or portion thereof, that is not printed or not included in the list of those of which ten (10) copies shall be provided for the use of the Judges, by copying in said brief the [fol. 1429] part thereof which he considers appurtenant.

It is further agreed that this stipulation be printed by the Clerk as part of the record on appeal.

H. T. Dick, E. A. Smith, Charles J. Rixey, Morison R. Waite, Counsel for Appellants. William D. Mitchell, Solicitor General for the United States of America. J. Stanley Payne, Solicitor for the Interstate Commerce Commission. M. G. Roberts, C. S. Burg, H. H. Larimore, Wallace T. Hughes, Counsel for Railroad Company, Appellees.

[fol. 1430] [File endorsement omitted.]

[fol. 1431] In Supreme Court of the United States

Statement of Points to be Relied Upon and Designation as to Parts of Record to be Printed—Filed July 28, 1927

I

Appellants in conformity with Paragraph 9 of Rule 11 of the Court, file this definite statement of the points on which they intend to rely, to show that the District Court of the Northern District of Illinois, Eastern Division, composed of three judges, erred in dismissing the Bill of Complaint filed by the Appellants, which sought to have adjudicated by said Court, that the order of the Interstate Commerce Commission bearing date July 12th, 1926, in its Docket No. 16697, was unlawful and void:

1st. Said order of the Interstate Commerce Commission was without any substantial evidence to support it and was arbitrary.

2nd. That which was declared by said Interstate Commerce Commission in its said order to constitute a "practice" is not a "practice" within the meaning of that word as used in the Interstate Commerce Act.

[fol. 1432] 3rd. The Interstate Commerce Commission had no power under the sections of the Interstate Commerce Act referred to in its said report, or otherwise, to make the said order.

4th. The controversy before said Interstate Commerce Commission in its said docket was one involving rates and divisions of through rates, and not one involving a "practice" within the meaning of that word as used in the Interstate Commerce Act.

5th. The Interstate Commerce Commission had no substantial evidence before it to support its order changing rates and divisions of through rates.

6th. Said Interstate Commerce Commission disregarded the various elements, which by the terms of the Interstate Commerce Act, said Commission is required to consider in a case which involves rates and divisions.

7th. Even if that which was declared by the Interstate Commerce Commission in its report and order as constituting a "practice" was a "practice," the said Commission had no substantial evidence before it to support its finding that the "practice" was unjust and unreasonable.

8th. That which the Interstate Commerce Commission condemned as a "practice" was a "practice" for which the west side lines and not the east side lines were responsible.

9th. The action of the Interstate Commerce Commission was based upon an erroneous construction of the Interstate Commerce Act, and deprives the plaintiffs herein of their property without due process of law, and is in contravention of the Constitution of the United States, and particularly the Fifth Amendment thereto.

10th. Said District Court erred in failing to render a decree enjoining, setting aside, annulling and suspending the order of the Interstate Commerce Commission in the proceeding before it in its Docket No. 16697, bearing date July 12th, 1926, and permanently enjoining the enforcement of said order.

II

The Appellants deem necessary for the consideration of [fol. 1433] the foregoing points, the following parts of the record.

1. The Bill of Complaint, with exhibits thereto.

2. The order setting the cause for hearing on November 29th, 1926, made by Honorable James H. Wilkerson, District Judge, on November 16th, 1926.

3. Answer of the United States of America.

4. Intervention and answer of the Interstate Commerce Commission.

5. Intervention and answer of The Chicago, Rock Island & Pacific Railway Company, et al.

6. Order dismissing Bill for want of equity, of December 8th, 1926.

7. Petition of Appellants for appeal.

8. Assignment of errors on appeal.

9. Order of court allowing appeal and fixing bond.

10. Bond of Appellants on appeal.

11. Citations on appeal and acknowledgment of service thereof.

12. Statement of evidence in narrative form.

13. Stipulation of the parties, including the intervening defendants, that said statement was correct, and should be substituted for the original testimony of the witnesses and be transmitted with the original exhibits.

14. Order of court entered on or about June 23rd, approving the statement of evidence in narrative form, and ordering it and all exhibits in original form incorporated in the record, and transmitted to the Supreme Court.

15. Orders of court extending time for filing record in the Supreme Court, to-wit: that of February 5th, extending time to April 7th, 1927; that of March 30th, extending time to May 12th, 1927; that of April 28th extending time to June 10th, 1927, and that of June 7th extending time to July 30th, 1927.

16. Appellants' præcipe for transcript of record and acknowledgment of service.

[fol. 1434] 17. Order of February 15th enlarging time of Appellees' to fill præcipe until March 8th, 1927. Order of March 5th, extending until April 1st, Appellees' time to file præcipe and objections to statements of evidence. Order of March 30th, extending time for such præcipe and objections to April 22nd. Order of April 20th extending time for such præcipe and objections to April 29th. Order of April 28th extending time for such præcipe and objections to May 20th, 1927.

18. Stipulation of the parties omitting from printing the exhibits therein specified.

19. The following exhibits, which under the foregoing stipulation are to be printed.

Exhibit No.	5	Exhibit No.	24	Exhibit No.	60
"	6	"	25	"	69
"	9	"	26	"	70
"	10	"	27	"	71
"	16	"	29	"	72
"	19	"	48	"	73
"	20	"	50	"	74
"	21	"	57	"	75
"	22	"	58	"	76
"	23	"	59	"	77

20. Certificate of the Clerk of the District Court of the Northern District of Illinois, Eastern Division, to the transcript of record.

21. This statement.

Morison L. Waite, Homer T. Dick, Elmer A. Smith, Charles J. Rixey, Counsel for Appellants.

Service of the foregoing statement is hereby acknowledged.

Blackburn Esterline, H., Assistant to the Solicitor General of the United States of America. P. J. Farrell, Solicitor for the Interstate Commerce Commission. Wallace T. Hughes, M. G. Roberts, C. S. Burg, H. H. Larrimore, Counsel for Railroad Company, Appellees.

[fol. 1435] [File endorsement omitted.]

Endorsed on cover: File No. 32,856. N. Illinois D. C. U. S. Term No. 404. The Baltimore & Ohio Railroad Company, William W. Wheelock, and William G. Bierd, receivers, etc., et al., appellants, vs. The United States of America, The Interstate Commerce Commission, The Chicago, Rock Island & Pacific Railway Company, et al. Filed July 28th, 1927. File No. 32,856.

FEB 20 1928
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1927

No. 404

THE BALTIMORE & OHIO RAILROAD COMPANY; WILLIAM W. WHEELOCK AND WILLIAM G. BIERD, RECEIVERS OF THE CHICAGO & ALTON RAILROAD COMPANY; CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY; THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY; ILLINOIS TRACTION, INC.; ILLINOIS CENTRAL RAILROAD COMPANY; LITCHFIELD & MADISON RAILWAY COMPANY; LOUISVILLE & NASHVILLE RAILROAD COMPANY; MOBILE & OHIO RAILROAD COMPANY; THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD COMPANY; THE PENNSYLVANIA RAILROAD COMPANY; SOUTHERN RAILROAD COMPANY, AND WABASH RAILWAY COMPANY,

Appellants,

VS.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION; THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY; MISSOURI-KANSAS-TEXAS RAILROAD COMPANY; MISSOURI PACIFIC RAILROAD COMPANY, AND ST. LOUIS-SAN FRANCISCO RAILROAD COMPANY,

Appellees.

BRIEF FOR APPELLANTS

D. P. CONNELL, HOMER T. DICK, W. A. NORTHCUTT, GUERNSEY ORCUTT, CHARLES J. RIXEY, LOUIS H. STRASSER, W. J. STEVENSON, ELMER A. SMITH, FRANK H. TOWNER, MORISON R. WAITE,

Counsel for Appellants.

Office Date. 2/25/37

CONTENTS

PAGE

Jurisdiction of this Court 2

Proceedings before the Interstate Commerce Commission 3

Proceedings before the District Court 7

Evidence:

History 15

West Side Lines' Evidence in Chief 21

East Side Lines' Evidence 24

West Side Lines' Rebuttal Evidence 28

Argument:

The controversy before said Interstate Commerce Commission in its said docket was one involving rates and divisions of through rates, and not one involving a "practice" within the meaning of that word as used in the Interstate Commerce Act 33

That which was declared by said Interstate Commerce Commission in its said order to constitute a "practice" is not a "practice" within the meaning of that word as used in the Interstate Commerce Act 47

The Interstate Commerce Commission had no power under the sections of the Interstate Commerce Act referred to in its said report, or otherwise, to make the said order 47

That which the Interstate Commerce Commission condemned as a "practice" was a "practice" for which the west side lines and not the east side lines were responsible 64

The Interstate Commerce Commission had no substantial evidence before it to support its order changing rates and divisions of through rates 68

Said Interstate Commerce Commission disregarded the various elements, which by the terms of the Interstate Commerce Act, said Commission is required to consider in a case which involves rates and divisions 68

Even if that which was declared by the Interstate Commerce Commission in its report and order as constituting a "practice" was a "practice," the said Commission had no substantial evidence before it to support its finding that the "practice" was unjust and unreasonable 79

J51548

PAGE

Said order of the Interstate Commerce Commission was without any substantial evidence to support it and was arbitrary 85

The action of the Interstate Commerce Commission was based upon an erroneous construction of the Interstate Commerce Act, and deprives the plaintiffs herein of their property without due process of law, and is in contravention of the Constitution of the United States, and particularly the Fifth Amendment thereto 85

Said District Court erred in failing to render a decree enjoining, setting aside, annulling and suspending the order of the Interstate Commerce Commission in the proceeding before it in its Docket No. 16697, bearing date July 12, 1926, and permanently enjoining the enforcement of said order.. 85

TABLE OF CASES

PAGE

Alton & Southern R. Co. v. Ill. Com. Comm., 316 Ill. 625, 147 N. E. 417 83

Borden's Farm Products Co. v. N. Y. N. H. & H. R. R. Co., et al., 92 I. C. C. 270, 102 I. C. C. 497 52

Consolidated Lumber Co. v. Dir. Gen., 101 I. C. C. 284 83

Ill. Cent. R. R. Co. v. Railroad Commission of Ky., 1 Fed. (2nd) 805 83

In the Matter of Bills of Lading, 52 I. C. C. 671, 696 52

Interstate Commerce Commission v. Humboldt S. S. Co., 224 U. S. 210 42

Keller v. Potomac Electric Co., 261 U. S. 428 42

Los Angeles Passenger Terminal Cases, 100 I. C. C. 421 54

Louisville & Nashville R. R. Co. v. Garrett, 231 U. S. 298 42

Manufacturers' Association of York v. Pennsylvania R. R. Co., 107 I. C. C. 219 53

Mitchell Coal Co. v. Pennsylvania R. R. Co., 230 U. S. 247 42

Montgomery Cotton Exchange v. S. A. L. Ry. Co., 100 I. C. C. 579 53

New England Divisions Case, 261 U. S. 184 69

Northern Pacific Ry. Co. v. Solum, 247 U. S. 477 60

Ohio Valley Co. v. Ben Avon Borough, 253 U. S. 287 42

Pennsylvania Paraffine Works v. Pennsylvania R. R. Co., 34 I. C. C. 179 48

Pennsylvania R. R. Co. v. Clark Bros. Coal Mining Co., 238 U. S. 456 61

Pennsylvania R. R. Co. v. Puritan Coal Co., 237 U. S. 121 61

Peoria & Pekin Union Ry Co. v. U. S., 263 U. S. 528 58

Postal Telegraph-Cable Co. v. Western Union Telegraph Co., 59 I. C. C. 512 53

Rates, Regulations and Practices of Peoria & Pekin Union Ry. Co. at Peoria, Ill., 115 I. C. C. 469 ..... 44, 71, 78

Robinson v. B. & O. R. R. Co., 222 U. S. 506 42

Skinner & Eddy Corporation v. United States, 249 U. S. 557, 562. 42

Summerville Iron Works v. C. R. R., 101 I. C. C. 583 83

Terminal Railroad Association of St. Louis v. United States, 266 U. S. 17 ..... 23, 40, 41

of Illinois, composed of three judges, pursuant to the provisions of the United States Code, Title 28, Section 41 (28) and Sections 43 to 48 inclusive, being codification of the provisions of the act of Congress of October 22, 1913, 38 Statutes at Large 219, and the pertinent provisions of the judicial code relating to the commerce court. This decree dismissed the Bill of the Appellants who were plaintiffs below, to set aside and enjoin the order of the Interstate Commerce Commission entered on July 12, 1926, in its Docket No. 16697, which proceeding was brought before that Commission by the Chicago, Rock Island & Pacific Railway Company, Missouri-Kansas-Texas Railroad Company, the Missouri Pacific Railroad Company, and the St. Louis-San Francisco Railroad Company, complainants, known in that proceeding and hereinafter called the West Side Lines, who intervened in the proceeding in the District Court and are Appellees here. The plaintiffs below and the Appellants here will be hereinafter referred to as the East Side Lines.

This is a continuation of the controversy between these railroads concerning the expense of transfer charges across the Mississippi River between St. Louis and East St. Louis, which was last before this Court in *Terminal Railroad Association of St. Louis* v. *United States*, 266 U. S. 17 (October 13, 1924). By the decision of this Court in that case, the East Side Lines were advised that the controversy was one involving rates and divisions, of which the Interstate Commerce Commission had primary jurisdiction. Following that decision the West Side Lines appealed to the Commission but did not invoke its jurisdiction in reference to rates and divisions, but presented the question solely as one involving a "practice" and it was so treated and decided by the Commission. One of the principal questions here to be determined is whether the basis of making through rates that has obtained for approximately fifty

years can be changed at great expense to the East Side Lines and to the corresponding great advantage of the West Side Lines without consideration being given to the comparative measure of the rates of each of the parties for the service performed.

PROCEEDINGS BEFORE THE INTERSTATE COMMERCE COMMISSION

The complaint of the West Side Lines before the Interstate Commerce Commission is Exhibit No. 3 to the Bill of Complaint in the court below, and is printed in the Record beginning at p. 30. It is alleged that the complainants and defendants are common carriers engaged in the transportation of passengers and property wholly by railroad between points in the State of Missouri and points in the State of Illinois and other states, and are subject to the provisions of the Interstate Commerce Act. The complaint alleges the existence of companies, of whom The Terminal Railroad Association is one, engaged in carrying freight across the Mississippi River between the St. Louis, Missouri and East St. Louis, Illinois switching districts, which exact for their services certain sums of money in the form of freight charges which vary in amounts depending upon the class or kind of traffic transported and which said charges on both through west and east bound traffic are ultimately paid and borne by the carriers, including the complainants whose lines of railroad come into St. Louis, Missouri from the West, commonly known as West Side Lines.

As stated by the Commission in its report (Rec., p. 16):

> "The principal defendants are the east-side carriers serving East St. Louis, 13 in number, although most of the carriers in the eastern and southern groups

> are also named as defendants. Defendants Chicago, Burlington & Quincy and Wabash, with lines on both sides of the river, have made themselves cross-complainants with respect to trans-Mississippi River traffic moving over their lines west of the river and interchanged with each other or with other defendants through the St. Louis-East St. Louis gateway. To the extent that they are cross-complainants they seek whatever relief is accorded complainants."

These principal defendants, East Side Lines, other than the Chicago, Burlington & Quincy, were plaintiffs below and are Appellants here.

The substance of the complaint is thus epitomized by the Commission in its report (Rec., p. 17):

> "In substance, the allegations of the complaint are that the East Side Lines' practice of requiring the West Side Lines to assume the burden and expense of delivering through west bound traffic to them at St. Louis, while at the same time being relieved by the West Side Lines of the similar burden and expense on east bound traffic, is unjust, unreasonable, unjustly discriminatory, unduly preferential and prejudicial, unlawful, and illegal. There is a further allegation that the East Side Lines refuse to provide reasonable facilities for the operation of through routes and to make reasonable rules and regulations with respect to the operation of such routes, but no change in the present method of handling the traffic is sought. This allegation is included only to provide a basis for a certain contention, hereinafter dealt with, which bears upon the propriety of the practice mentioned. All that the West Side Lines seek in this case is to be relieved of paying the transfer expense on west bound traffic. In the final analysis their prayer is that we condemn the present practice, require the observance of a proper practice, and award reparation for the two-year period prior to February 5, 1925, the date on which the complaint was filed."

The issue is thus summarized by the Commission (Rec. p. 16):

> "The ultimate question here is whether the East Side Lines or the West Side Lines should bear the expense incident to the transfer across the Mississippi River from East St. Louis, Ill., to St. Louis, Mo., of practically all carload and less-than-carload through freight originating east of the St. Louis-East St. Louis district and destined west thereof."

The principal defendants filed answers denying specifically the material allegations of the complaint and containing this further paragraph:

> "Further answering, these defendants aver that the sole question in this case is as to the lawful measure of the amounts received by the East Side Lines and the West Side Lines respectively, for their services in connection with through traffic moving through the St. Louis-East St. Louis gateway or West Alton and that wherever the West Side Lines bear the cost of the transfer charges across the river, said West Side Lines are fully compensated by the amounts received by them for their services in connection with such through traffic and that if the amounts received by either the East Side or West Side Lines are in any way unfair, unjust or inequitable, such unfairness, injustice and inequality arises because the West Side Lines receive greater amounts than they are fairly entitled to."

(Original transcript—omitted in printing—1397.)

At the hearing before the Commission the complainant West Side Lines insisted on confining the inquiry to the allegations of the complaint, which related to a matter of practice only. (Rec., pp. 184 to 198.) The following statement of counsel for complainants is typical:

> "We are complaining as to through traffic, west bound and east bound, whether it moves on combina-

> tion of locals or whether it moves under through joint rates. The question of the rates and divisions has nothing to do with a proper practice regarding the interchange of traffic. It is distinct and separate, and our complaint relates only to the matter of reasonable rules and regulations governing interchange between carriers at a terminal owned by all of them." (Rec., p. 185.)

The opinion of the Commission is Exhibit No. 1 to the Bill of Complaint in the court below, printed in the Record beginning at page 15, and the order of the Commission as corrected begins at page 27. The Commission passed upon the matter solely as a practice matter. However, the Commission did say:

> "With respect to west bound traffic moving on joint rates, we are not convinced that the reception for a number of years by the West Side Lines of divisions of such joint rates in which the transfer charge was included does not constitute an acquiescence by the West Side Lines in such divisions which is tantamount to an agreement on their part to pay the transfer charge on such traffic. As to traffic moving under joint rates, therefore, we are not prepared at this time to make a definite finding upon the issues and record before us." (Rec., p. 26.)

Chairman Eastman, with whom concurred Commissioners Hall and Woodlock, dissented from the majority, their dissenting opinion being Exhibit No. 5 to the Bill of Complaint. (Rec., p. 56.) They thought the conditions of which complaint is made did not constitute a practice within the meaning of the Interstate Commerce Act, but if it was a practice, the practice complained of was as much a practice of the West Side Lines as of the East Side Lines, and that there was no evidence that the practice was unrea-

sonable. The opinion of the Commission is reported in 113 I. C. C. Reports 681.

The order of the Commission was confined to west bound freight traffic passing through both East St. Louis, Ill., and St. Louis, Mo., on combination rates which are the same on St. Louis as on East St. Louis, and required the defendants to abstain from the practice of requiring the complainants to bear the charges for transfer services from East St. Louis, Ill., to St. Louis, Mo., on such traffic, and to establish upon notice to the Commission, filing and posting in the manner prescribed in Section 6 of the Interstate Commerce Act and thereafter to maintain and apply to such freight traffic "the practice of bearing or absorbing on such traffic the charges for transfer services from defendants' lines in East St. Louis, Ill., to the lines of complainants, or of the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company in St. Louis, Mo."

The effective date of the order of the Commission was postponed to December 11, 1926, copy of the extension order being set out as Exhibit No. 2 to the Bill of Complaint below. (Rec., p. 30.)

PROCEEDINGS BEFORE THE DISTRICT COURT

On November 12, 1926, the Appellants, plaintiffs below, East Side Lines, filed their bill in equity against the United States of America to have set aside and annulled the order of the Commission. The printed Bill is found at page one of the printed record. The Bill after describing the plaintiffs and referring to the orders of the Commission which are exhibits to the Bill, and the designation of the complainants before the Commission sets out in Paragraph IV (Rec., p. 4) the allegations of the complaint before the Commission; in Paragraphs V to VIII inclusive the proceedings before the Commission, and in Paragraph IX the

dissenting opinion of Chairman Eastman and Commissioners Hall and Woodlock. In Paragraph X it is alleged that the order applies only to west bound traffic on combination rates and that the rates of the plaintiffs lawfully applicable to such traffic apply only to East St. Louis and the rates of the West Side Lines apply from East St. Louis. Plaintiffs' rates do not cover and never have covered the services rendered by the transfer or terminal companies between East St. Louis and St. Louis, and that the rates of the West Side Lines have since 1877 covered the services rendered by such transfer or terminal companies. The historical reason for this situation is set out in Paragraph XI (Rec., pp. 7-8-9) as due to the fact that in 1877 the Chicago & Alton completed its line to East St. Louis from the West by coming down the East bank of the Mississippi River from Louisiana, making East St. Louis via its route intermediate to and from St. Louis and thereby applying the same rates on St. Louis as East St. Louis, and that the West Side Lines to meet this competition then and have ever since applied their rates to and from St. Louis also to and from East St. Louis, and that thereby they have undertaken since 1877 to provide and pay for transportation services necessary under those rates from East St. Louis on through west bound traffic, and that that is not a "practice" within the meaning of that word as used in the Interstate Commerce Act, but if it were a "practice," would be a practice not of the plaintiffs but of the West Side Lines, voluntarily established and voluntarily maintained by them since 1877. In the next paragraph it is alleged that the Interstate Commerce Commission misconceived and misconstrued the meaning of the word "practice" as used in the Interstate Commerce Act; that its opinion and order is based on a mistake of law and therefore null and void and beyond the power of the Commission.

In Paragraph XIII (Rec., p. 10) it is alleged that the order of the Interstate Commerce Commission does not require any change in the manner of handling or transporting through west bound traffic; does not affect in the slightest degree the method in which the actual physical exchange of traffic is made between the plaintiffs and the West Side Lines; that if the order is permitted to take effect the west bound traffic will be handled in exactly the same manner as now; that the order goes solely to the apportionment of revenue, and that its sole and only effect is to reduce the plaintiffs' shares or divisions of the through combination rates lawfully applicable to such traffic by the amount of the charges of the terminal or transfer companies, and to increase to that extent the shares or divisions of the West Side Lines; while the order of the Commission purports to require a change in practice it really deals solely with the shares or divisions of rates, reduced on the one hand and increased on the other, as above stated; that the complaint before the Commission did not attack or deal with the reasonableness of such shares or divisions; that there was no hearing with respect to the reasonableness thereof and no evidence introduced tending to show that they were unreasonable, and that there was no finding made by the Commission in that respect and in consequence the order is beyond the jurisdiction of the Commission and null and void.

By Paragraph XIV attention is called to the fact that while no order was made with respect to traffic handled under joint through rates, the Commission undertook to keep the proceeding alive with respect to such traffic without being prepared at the time to make a definite finding.

By Paragraph XV (Rec., p. 12) it is alleged that even if it be conceded that the payment by the West Side Lines of the transfer charges out of the rates of the West Side Lines voluntarily established is a "practice" within the

meaning of the Act, there was no evidence before the Commission enabling it to determine whether the rates or divisions of the plaintiffs applying up to East St. Louis on through west bound traffic should be reduced by the amount of the charges of the terminal or transfer companies, and the rates or divisions of the West Side Lines increased, or that would support or tend to support a finding of the Commission that such alleged "practice" was in any respect unjust and unreasonable.

It is averred in Paragraph XVI (Rec., p. 13) that the order of the Commission is unlawful and void upon the following grounds:

> "(1) That which is declared by the Interstate Commerce Commission in its report and order to constitute a 'practice' is not a 'practice' within the meaning of that word as used in the Interstate Commerce Act.
>
> "(2) The Interstate Commerce Commission has no power under the sections of the Interstate Commerce Act referred to in its report or any other sections of said Act, to make the said order. The order of the Interstate Commerce Commission exceeds the statutory power conferred upon the Interstate Commerce Commission by the Interstate Commerce Act.
>
> "(3) If the facts set out in the report of the Interstate Commerce Commission constitute a 'practice' within the meaning of that word as used in the Interstate Commerce Act there was no evidence before the Interstate Commerce Commission in said cause which would enable the Commission to determine whether such 'practice' was in any respect unreasonable or unjust, or would support or tend to support the finding of the Interstate Commerce Commission that such 'practice' was unjust and unreasonable.
>
> "(4) The order of the Interstate Commerce Commission is without any evidence to support it.
>
> "(5) The order of the Interstate Commerce Commission is arbitrary.

"(6) The order of the Interstate Commerce Commission, based as—is upon a misconception of the Interstate Commerce Act and an erroneous construction of that Act deprives the plaintiffs herein of their property without due process of law and is in contravention of the constitution of the United States and particularly the Fifth Amendment thereto."

An answer was filed by the defendant in that cause (Rec., p. 59) denying everything that conflicted with the opinion of the Commission, particularly denying all the allegations of Paragraph XVI, and further answering alleged that the matters were fully heard and determined by the Commission and were within its power and authority to hear and determine and in its report made after full hearing together with its order were fully considered and foreclosed by findings of fact based on substantial evidence.

The Interstate Commerce Commission intervened and filed answer. (Rec., p. 62.) It is alleged that its findings and conclusions were fully supported and justified by the evidence which it considered and weighed carefully in the light of its own knowledge and experience including matters covered by the Bill of Complaint; that its order was not made arbitrarily, or unjustly, or contrary to the evidence, or without evidence to support it, and that the Commission did not exceed its authority or exercise that authority in any unreasonable manner, denying all allegations to the contrary.

The West Side Lines, complainants before the Commission, also intervened and filed their answer. (Rec., p. 65.) Intervenors admitted the allegations in Paragraphs I to IX inclusive of the Bill. They admitted also that plaintiffs were common carriers subject to the Interstate Commerce Act; that the order of the Commission applied to west bound traffic but allege that it applies only to traffic moving on combination rates which are the same on St. Louis

as East St. Louis, and deny that the question of plaintiffs' rates to East St. Louis is in issue as set out and pleaded in said Paragraph X. They deny that they voluntarily published to and from East St. Louis the same rates as to and from St. Louis as to west bound traffic, but allege that they have borne the charges of the Terminal on both east and west bound traffic because forced to do so account of the arbitrary action of the Terminal Association which the plaintiffs through stock ownership control. They further deny that if the payment by the West Side Lines of the transfer charges be not a practice that the Commission is without power to make the order complained of; deny that the Commission has misconceived the meaning of the word "practice"; deny that the order is based upon a mistake of law and is null and void. They allege that the question of reasonableness of the transfer charge or the apportionment of those charges is not in issue, but that the plaintiffs having voluntarily extended their lines to St. Louis through use of the rails of the Terminal are required by the order to deliver west bound through traffic to the intervenors at the end of plaintiffs' rails in St. Louis, Missouri. They also deny that the question of whether the rates of the plaintiffs applying to East St. Louis should be reduced is not in issue, but that plaintiffs through their subsidiary the Terminal have voluntarily extended their rails to St. Louis, and that the order of the Commission only covers transfer charges on west bound traffic on which the rates are combination rates the same on St. Louis and East St. Louis.

The cause was heard November 29, 1926, before Circuit Judge Hon. Albert B. Anderson, and District Judges Hon. James H. Wilkerson and Hon. Adam C. Cliffe. Stipulations were made as to exhibits to the Bill of Complaint and to copies of the dissenting opinion of the Commission in Docket 16697 and of the order of the Commission in that

docket number. It was also stipulated that the cause be submitted on final hearing on the pleadings and the certified copy of the evidence before the Commission which was introduced and as reduced to narrative form appears at Record, pages 75 et seq.

The correctness of the statement, substitution of the narrative for the oral testimony and transmittal of the original exhibits is covered by stipulations of all parties (Rec., p. 73) and approved by the court. (Rec., p. 616.)

On December 8, 1926, the court ordered the Bill of Complaint dismissed for want of equity without filing a written opinion. (Rec., p. 68.)

Petition for appeal was filed February 5, 1927 (Rec., p. 69), with assignment of errors (Rec., p. 70) and on same day appeal was allowed. (Rec., p. 72.) The time for filing record in the Supreme Court was extended from time to time until July 30, 1927. (Rec., pp. 617 to 620.) The record was filed July 28, 1927, and with it a stipulation as to printing record and exhibits. (Rec., p. 622.) All the exhibits are before the court. By this stipulation many thereof are not printed. Of those not printed ten copies of thirteen of the exhibits have been supplied to be bound in ten separate volumes for the use of the court.

The assignments of error are at pages 70 and 71 of the printed record. They constitute the basis for the statement of points to be relied upon under Paragraph 9 of Rule 11, found at pages 624 and 625, to show the error of the court below in dismissing the Bill of Complaint which sought to have the order of the Interstate Commerce Commission in its Docket No. 16697 adjudicated unlawful and void:

> 1st. Said order of the Interstate Commerce Commission was without any substantial evidence to support it and was arbitrary.

2nd. That which was declared by said Interstate Commerce Commission in its said order to constitute a "practice" is not a "practice" within the meaning of that word as used in the Interstate Commerce Act.

3rd. The Interstate Commerce Commission had no power under the sections of the Interstate Commerce Act referred to in its said report, or otherwise, to make the said order.

4th. The controversy before said Interstate Commerce Commission in its said docket was one involving rates and divisions of through rates, and not one involving a "practice" within the meaning of that word as used in the Interstate Commerce Act.

5th. The Interstate Commerce Commission had no substantial evidence before it to support its order changing rates and divisions of through rates.

6th. Said Interstate Commerce Commission disregarded the various elements, which by the terms of the Interstate Commerce Act, said Commission is required to consider in a case which involves rates and divisions.

7th. Even if that which was declared by the Interstate Commerce Commission in its report and order as constituting a "practice" was a "practice," the said Commission had no substantial evidence before it to support its finding that the "practice" was unjust and unreasonable.

8th. That which the Interstate Commerce Commission condemned as a "practice" was a "practice" for which the West Side Lines and not the East Side Lines were responsible.

9th. The action of the Interstate Commerce Commission was based upon an erroneous construction of the Interstate Commerce Act, and deprives the plaintiffs herein of their property without due process of law, and is in contravention of the Constitution of the United States, and particularly the Fifth Amendment thereto.

10th. Said District Court erred in failing to render a decree enjoining, setting aside, annulling and sus-

pending the order of the Interstate Commerce Commission in the proceeding before it in its Docket No. 16697, bearing date July 12, 1926, and permanently enjoining the enforcement of said order.

EVIDENCE

The history of the St. Louis rate situation is given to some extent by Assistant Freight Traffic Manager Stanage of the St. Louis-San Francisco Railway at pages 87 to 90 of the Record. It is given in greater detail by witnesses fo. the East Side Lines, General Traffic Manager Sudborough of the Pennsylvania at pages 253 to 257 and by Vice President Maxwell of the Wabash at pages 265 to 268; 274 to 275. As to this testimony it was said by Mr. Robert N. Nash, Assistant Freight Traffic Manager of the Frisco, witness for the West Side Lines: "Mr. Maxwell and Mr. Sudborough have given a very thorough and complete historical sketch of the rate situation and I have no criticism to make of any of the facts presented by them."

Generally speaking, but subject to exceptions to be hereafter noted, the rails of the West Side Lines terminate at St. Louis, Missouri and the rails of the East Side Lines at East St. Louis, Illinois. Up to 1877 this was true without exception. Prior to 1877 the rails of the West Side Lines did not extend to East St. Louis, nor of the East Side Lines to St. Louis. Each made rates to the end of the line to which had to be added the cost of transfer across the river. Prior to 1877 the rates on through traffic passing through the East-St. Louis-St. Louis Gateway were constructed by adding together the rates to or from East St. Louis of the carriers whose rails terminated at East St. Louis, the transfer charge for the crossing of the Mississippi River, and the rates to or from St. Louis of the West Side Lines whose rails terminated at St. Louis, that is to say, prior to 1877 the rates on through westbound

freight traffic were made up of three factors; namely, the rates of the East Side Lines to East St. Louis, the charge for the transfer of the traffic from East St. Louis to St. Louis, and the rates of the West Side Lines applying from St. Louis.

In 1877 this method of constructing the rates was changed by reason of the entrance into East St. Louis of the Chicago & Alton Railroad Company. The Chicago & Alton Railroad Company during that year completed its line of railroad from Kansas City, Missouri to East St. Louis, Illinois, by way of Louisiana, Missouri, and thence down the east bank of the Mississippi River to East St. Louis, Illinois. Now it can readily be seen that if the Chicago & Alton Railroad Company was to participate in the movement of freight traffic between St. Louis and the West and the Southwest such traffic would have to move to or from St. Louis by way of East St. Louis. As the Chicago & Alton could not carry higher rates to or from East St. Louis than it carried to or from St. Louis, it established from East St. Louis the same rates that the West Side Lines then maintained to and from St. Louis. Thus when through traffic destined to points west of St. Louis was delivered by the East Side Lines at East St. Louis to the Chicago & Alton Railroad Company the through charges on such traffic were made up of the rates of the East Side Lines up to East St. Louis and the rates of the Chicago & Alton Railroad Company beyond and were less by the amount of the charge for the transportation of such traffic from East St. Louis to St. Louis than the through charges would be had that traffic been carried across the river by the transfer or terminal companies to St. Louis and there delivered to a West Side Line for movement to destination. To meet this competition of the Chicago & Alton Railroad Company the West Side Lines, whose rails extended only to St. Louis, voluntarily published in 1877 the same rates

to and from East St. Louis that they had established to and from St. Louis to the end that the rates on through traffic moving over their rails would be no higher than the rates on such traffic when moving over the rails of the Chicago & Alton Railroad.

The West Side Lines have ever since 1877 published and applied to and from East St. Louis the rates that they published and applied to and from St. Louis and have ever since 1877 paid out of the rates which they thus voluntarily published to and from East St. Louis the charges for the services rendered by such transfer or terminal companies as move traffic between East St. Louis and St. Louis. The rates on through traffic have ever since 1877 broken on East St. Louis irrespective of whether the traffic was eastbound or westbound, with the exception of traffic destined to or originating in a territory of limited extent lying within what is known as the hundred mile zone.

No like change has ever occurred with respect to St. Louis, Mo.; that is, no eastern line has ever entered East St. Louis, Ill., by way of St. Louis, Mo. The West Side Lines made no objection to this bearing of the bridge toll on through traffic in both directions until after the application by the East Side Lines of the same rates to and from St. Louis and East St. Louis.

During 1906 and 1907, in compliance with a demand made by the business interests of St. Louis, Mo., through what was then known as the Municipal Bridge and Terminals Commission, joint through rates were published by the East Side Lines to and from St. Louis, Mo., which were slightly higher than the rates in effect to and from East St. Louis, Ill. This readjustment did not satisfy the St. Louis business interests and finally the East Side Lines in compliance with the insistent demands of said Commission published the same joint through rates from and to St. Louis, Mo., as from and to East St. Louis, except between St. Louis

and points within a radius of 100 miles from East St. Louis. This was accomplished by reducing all of the rates from and to St. Louis, Mo., and in some but not all cases, slightly advancing the rates from and to East St. Louis, Ill. This caused an appreciable loss in the revenues of the East Side Lines, because the slight advances in the rates to and from East St. Louis did not afford the East Side Lines anything like adequate compensation on account of such loss.

The increase of the East St. Louis rates was from 116 per cent. to 117 per cent. of the New York-Chicago rates, amounting to the following advances in East St. Louis rates, (Rec., pp. 266 and 273):

Classes	1	2	3	4	5	6
Cents	1	½	½	½	0	0

At the present time the difference between 116 per cent. and 117 per cent. is:

Classes	1	2	3	4	5	6
Cents	1½	1	1	½	½	½

Present bridge tolls:

Classes	1	2	3	4	5	6
Cents	5	5	5	3.1	3.1	2.7

(Rec., p. 389.)

All the negotiations between the railroads and the Municipal Bridge and Terminals Commission concerned solely the question of rates between St. Louis, Mo., and certain points east of the Mississippi River. It was never understood that the reduction in said rates to and from St. Louis, Mo. would affect in any manner whatsoever the basis for making and dividing rates applicable to traffic moving between points east of the Mississippi River, and points west

of the river. (Rec., pp. 258 and 408.) All east-bank points from East St. Louis to East Dubuque likewise became basing points and have so continued from 1877 until the present time.

No objection was made by the West Side Lines to the payment of the bridge tolls between St. Louis and East St. Louis on through business in both directions until after the "putting of St. Louis on the map" by giving it the same rates as East St. Louis to and from the East outside of the hundred mile zone, which was done as a result of the pressure of the Municipal Bridge and Terminals Commission of St. Louis and for the benefit of the St. Louis interests. St. Louis was not concerned with the divisions between the carriers on through business.

There are separate switching districts on each side of the Mississippi River at St. Louis, Mo. and at East St. Louis, Ill. defined in tariff publications. The outlines or boundaries of either switching district do not coincide or intersect at any point and the Mississippi River flows between the two. The practice with respect to the absorption of intermediate switching charges is not the same within the East St. Louis, Ill. switching district as it is in the St. Louis, Mo. district. In East St. Louis the receiving line absorbs the intermediate switching charges; in St. Louis generally the delivering line absorbs it. East St. Louis, Ill. and St. Louis, Mo. are separate municipalities in different states and separate industrial communities. (Rec., pp. 260-261.)

Immediately following the extension of the East St. Louis rates to St. Louis, the East Side Lines by appropriate publication confined those rates to local business and prevented their application to through business, except where thereby the combination on St. Louis was made less than the combination on East St. Louis. (Rec., pp. 551-552, 572.)

The form has changed from time to time, but since 1917 the note carried in all the tariffs is as follows:

> "In the absence of through rates on traffic to points west of the Mississippi river, from points named herein, routed via St. Louis, Missouri, through rates will be made on the East St. Louis combination, except when the combination of rates filed with the Interstate Commerce Commission on St. Louis, Missouri, is lower, in which case the St. Louis, Missouri, combination rate will apply. This rule will not apply via the C. B. & Q. Nothing in this item is to prevent the application of an existing lower combination via the route of movement."

This note in substance was drawn by the Chief of the Bureau of Tariffs of the Interstate Commerce Commission, and published on short notice by permission of the Commission. (Rec., pp. 261-264.)

In addition to the Chicago & Alton, at the present time other western lines have their yards and tracks in East St. Louis. The Wabash and the Chicago, Burlington & Quincy compete with the Alton to the West. The Cotton Belt (St. Louis-Southwestern Ry. Co.) and the East Side Line of the Missouri Pacific to the Southwest, are in exactly the same situation as the Chicago & Alton; that is, they cross the Mississippi River below at Thebes and reach St. Louis by first passing through East St. Louis, making the latter point intermediate to and from destinations and points of origin beyond Thebes. The Illinois Central reaches St. Louis through East St. Louis and the Southwest through its connections and controlled lines at lower river crossings. The Missouri Pacific also has its own transfer across the river by ferry, the Ivory transfer, from Carondolet in the St. Louis switching district to Dupo on the East side of the river. (Rec., pp. 292-3, 297, 338-358, 260-261.) Because of this competition between the western

and southwestern lines on the East bank of the river, other western lines at St. Louis are compelled to maintain a rate parity between St. Louis and East St. Louis outside of the hundred mile zone. It is of controlling effect today. See testimony of Mr. R. N. Nash, Asst. Freight Traffic Manager of the St. Louis-San Francisco Ry. Co. (Rec., pp. 354-356.) A statement to the same effect was made by Mr. F. A. Adams, Asst. to the Freight Traffic Manager of the C. R. I. & P. (Rec., p. 370.)

The West Side Lines to sustain their position offered evidence on the following points only:

(a) Evidence to show the physical situation at St. Louis and East St. Louis, and the method of handling business between the carriers. (Rec., pp. 76-81, 90-91, 252.) A part of this evidence consists of extracts from the report of an engineers' committee to the chairman of the Terminal Committee of the Chamber of Commerce, Exhibit 4, copies of which are in the volumes of separate exhibits outside the printed record. Pages 5 and 6 thereof show fifteen proprietary companies including the Iron Mountain, now a part of the Missouri Pacific, and twelve lines not proprietors, including among others, the Mobile & Ohio, Chicago & Eastern Illinois, and Toledo, St. Louis and Western. (Exhibit, pp. 5 and 6.) The non-proprietors are on an equal basis with the proprietors, each railroad being on a par with all other railroads, irrespective of its interest in the Terminal. (Exhibit, p. 21, first column. Also complainants' Exhibit 58, Rec., p. 535.) The West Side Lines also introduced the final decree in *United States v. Terminal Railroad Association of St. Louis,* Exhibit No. 50, p. 524, and copies of the agreements between the Terminal Association and proprietary companies, Exhibit No. 51, to be found in the volumes of exhibits outside the printed record. Reference particularly was made to the provision of that agreement for the enjoyment of equal use

without discrimination, as having a bearing on the present controversy. The agreement was made in 1889 when the West Side Lines were paying without objection the transfer charges in both directions, and must be construed in the light of the situation then existing. Freight is handled by the Terminal with its own power between railroads, and no change in method of physical handling is contemplated by the West Side Lines, nor would it be practical so to do. (Rec., pp. 199, 252.) What is wanted by the West Side Lines is more money, not change of method. (Rec., pp. 100, 321, 347, 363, 375.)

(b) Evidence to show the efforts of the West Side Lines to change the so-called "practice" of the West Side Lines bearing transfer charges in both directions. (Rec., pp. 91, 94, 95, 96.) While it was said that efforts began in 1905, the record is clear that at that date there was only a suggestion by the President of an East Side Line (Rec., p. 492, Exhibit 9), which suggestion was repudiated by the West Side Lines January 17, 1906. (Rec., p. 549.) Documentary evidence was presented in copies of letters contained in Exhibit 5, beginning at page 393 of the printed record. While in 1908 the subject of transfer charges was mentioned, the principal controversy related to transit arrangements on grain and grain products. (Rec., p. 268.) From 1908 to 1914 there was only one letter, that of July 20, 1911, (Rec., p. 419), which resulted in no meeting. (Rec., p. 92.) In 1914 the West Side Lines attempted to change the practice by refusing to pay transfer charges on eastbound through business, not westbound, as now claimed. The West Side Lines rescinded their action under protest and appealed to Commissioner Harlan of the Interstate Commerce Commission, who on June 16, 1915 advised of the necessity of a formal submission of the matter to the Commission. (Rec., p. 459.) President McChesney of the Terminal had previously given the same advice, November

30, 1914. (Rec., pp. 461-4.) A joint committee of the East Side and West Side Lines, known as the Powell Committee, was appointed October 30, 1915 and met November 8, 1915 to outline a program of investigation. (Rec., p. 467.) Its full report dated January 10, 1916 is Exhibit 59, pages 536 to 613 of the record. On April 9, 1917 a committee of five was determined on to analyze the Powell report. (Rec., pp. 475-477.) The four representatives of the lines involved could not agree on a fifth member, but did agree on a recommendation to submit the matter to the Interstate Commerce Commission. (Rec., p. 479.) During federal control Director General Payne instructed that the matter be held in suspense. Following federal control the West Side Lines instead of following the recommendation of the committee, instituted litigation in the nature of contempt proceedings against the Terminal and the East Side Lines, terminating in the decision of this Court in *Terminal Railroad Association of St. Louis* v. *United States*, 266 U. S. 17.

(c) Evidence to show that St. Louis was regarded as a station of the East Side Lines by advertisements, tariffs and bills of lading. (Rec., pp. 82-86, 96-104, 182-183, 205-206, 211-218, 240.)

(d) Evidence to show the method of interchange at other points throughout the United States. (Rec., pp. 104, 182, 207-211, 220-234, 238-239, 362-363, 375, 385-6.) This evidence shows that where there is interchange between carriers within the limits of a city or switching district, the expense of reciprocal interchange is divided in various ways. At most points by the delivering line assuming the expense; at other points by the receiving line bearing the expense, as at East St. Louis; at others by pooling arrangements between the carriers. Occasionally one carrier will assume the expense in both directions, as does the Illinois Traction System at St. Louis. (Rec., pp. 153-156.) The

testimony did not cover any situation comparable to that at St. Louis-East St. Louis where cars had to be transported between carriers from one switching district to another switching district, or across a great river, or where the rates broke at one point and the intermediate transportation took place between that point and another.

(e) Evidence to show the extent of transfer business between St. Louis and East St. Louis and the amount of charges paid by the West Side Lines for such transfer in each direction. (Rec., pp. 183, 203-205, 242-251.)

(f) Evidence to show the difference between present situation and that in 1877. (Rec., pp. 94-95.) The organization of the Terminal, the making of St. Louis a station by the Eastern lines, the permission under the Interstate Commerce Act of the shipper to route his freight, and the decisions of the Supreme Court in the Sherman Act case by the Government against the Terminal Railroad Association, reported in 224 and 236, U. S., were claimed to establish that the rails of the Terminal were in effect the rails of the proprietary lines and other lines using the Terminal.

(g) Evidence to show the fact that the East Side Lines allowed the Terminal a reclaim on westbound cars. (Rec., pp. 234-236, 241.)

(h) Evidence to show that interchange of passengers, mail and express between the East Side and West Side Lines is at St. Louis. (Rec., p. 200.)

Counsel for the West Side Lines were insistent and successful in their insistence, that the evidence of their witnesses even on cross-examination be limited to a consideration of the question from the point of view of "practice," and that no consideration whatsoever should be given to the question of rates or divisions of rates. (Rec., pp. 184-190, 198.)

The defendants after unsuccessfully moving to dismiss the complaint (Rec., p. 253) offered their evidence setting

out the history of the rate situation as heretofore given, and more specifically the basis and history of through rates between the various rate territories East and West, on traffic between points East and West of the Mississippi River when passing through East St. Louis or other river crossings. Between some territories the traffic moves on joint through rates and agreed divisions, the said divisions being invariably made with reference to the east bank of the river, whether the traffic crosses the river at the St. Louis gateway or at other crossings. (Rec., pp. 274, 278-282, 291, 298, 311, 321.) Other traffic moves on combination rates involving proportional rates less than locals, either West or East of the river, or both, which proportionals are made to or from East St. Louis, so that the East St. Louis combination is the lowest combination. (Rec., pp. 276-7.) A small amount involving the 100 mile zone territory moves on combinations of local rates which are lower on St. Louis than on East St. Louis, or vice versa. (Rec., p. 285.) The balance moves on combination of local rates to and from East St. Louis where the combination is the same as would be to and from St. Louis, but the East St. Louis combination has been used because of the note in the tariffs of the East Side Lines confining the East St. Louis rates to such combinations. (Rec., pp. 261, 390.) The West Side Lines in making proportionals to equalize rates via other routes have made their proportionals to and from East St. Louis. (Rec., pp. 277, 339.) They have even extended their rates to and from western points well into Illinois, giving Mississippi River rates to such interior points as Galesburg, Chapin and Beardstown. (Rec., p. 285; Exhibit No. 63.) The joint rate committee agreement of 1889 (Rec., pp. 272, 290), Exhibit page 604, provides for the East St. Louis basis of rates as divisions of through rates at all East Mississippi River points between East St. Louis and East Dubuque, which agreement

is still in force and insisted upon by the West Side Lines. (Exhibit No. 60, p. 613.)

Following federal control in 1920 both East and West Side Lines presented evidence to the Interstate Commerce Commission as a basis for advances of rates in the Eastern and Western groups respectively, treating the moneys paid to the Terminal Railroad Association as expense and not as revenue. The needs of the western roads to produce the necessary six per cent under the new law were measured by the revenue retained by them after their payment for the river transfer, and the necessities of the eastern roads were based on their revenues after the deduction of the small part of the cost of the river transfer paid by them, and both sets of carriers were awarded increases supposedly sufficient to bring their revenue up to six per cent. If the cost of the river transfer be now shifted, it will result in the western carriers getting much more than the increases awarded to them in Ex Parte 74, and the eastern carriers will get less. The situation is similar in so far as these bridge tolls being shown as expenses by the western roads in their application for an increase of freight rates under Ex Parte 87, which was in course of hearing at the time testimony was given in 16697. (Rec., pp. 287-289.)

The Cotton Belt and Missouri Pacific have their own rails into East St. Louis on the east bank to Thebes, and are begging for southwestern business, and prefer to handle with their own facilities rather than by the Terminal Railroad at St. Louis. (Rec., p. 292.) The Chicago and Alton and the C. B. & Q. are at East St. Louis with their own rails begging for western business which they do not handle through St. Louis but via Alton and via Louisiana. The Wabash is at East St. Louis begging for western business on the same terms as the Chicago and Alton and C. B. & Q. The Frisco and M.-K. & T. have a competitive condition

which they have had to meet and that is the reason they have met it. The Rock Island and Wabash and Missouri Pacific have had a competitive situation with the Chicago and Alton and Burlington which they have been obliged to meet all these years, and the western roads have, or should have known, that they must take care of this service and provide for it in their rates. (Rec., p. 293.) It was shown that of the business interchanged between the Wabash and the Missouri Pacific destined to or originating at points in southwestern territory, 85 per cent of the cars received from the Missouri Pacific by the Wabash, and 76 per cent of the cars delivered to the Missouri Pacific by the Wabash were handled wholly on the east side of the river without crossing the river at St. Louis. (Rec., p. 297.)

East St. Louis has been the interchange point ever since 1877, and the general custom there is the same as it is throughout the United States; that is, the intermediate expense at East St. Louis is borne equally by the receiving and delivering lines. (Rec., p. 292.) Instances of recent recognition of the east bank of the Mississippi River as the interchange point by the western lines voluntarily, or by the Interstate Commerce Commission, are noted at pages 279, 282, 305 and 317 of the record. Putting St. Louis on the map, i. e., equalizing its rates with East St. Louis in 1908, never cost the western roads one dollar, but the eastern roads were obliged to make a lower basis of rates from Central Freight Association and Trunk Line and New England territories. (Rec., p. 296.) The western lines have never made a request for divisions on St. Louis. (Rec., pp. 261, 298, 299.)

Through business from the Southeast through St. Louis and East St. Louis moves on joint through rates or proportional rates, including the Mississippi Valley, which divide on East St. Louis by agreed percentages or specific proportions. (Rec., pp. 298, 304.) The southern and south-

eastern lines take care of the Ohio River bridge tolls, and the western lines take care of the St. Louis bridge tolls. The southeastern lines do not pay the bridge toll at any point across the Mississippi River at St. Louis or south thereof. (Rec., pp. 304-306, 317.)

At the Ohio River crossing at Cincinnati, Ohio-Covington, Kentucky, the rates of the northern carriers are the same to and from Covington as Cincinnati, and the rates of the southern carriers are the same to and from each point. The southern lines pay the bridge tolls in both directions. The southern lines' rates usually break on the north bank, because they carry the south bank to the north bank to equalize competition between other crossings. At Louisville all the interchange is practically done on the south side of the river, even though the rates break and divide on the north bank, but the southern lines pay the bridge toll. (Rec., p. 314.)

A disturbance of the present rate adjustment at East St. Louis would disturb and throw into confusion the rate situation at all river crossings north thereof and would affect the readjustment of rates at Ohio River crossings. (Rec., pp. 390-392.)

The complainants in rebuttal offered evidence that there was no agreement on the part of the M.-K. & T. Railroad or other western lines that there would be no change in the making of through rates or in the division of rates with the eastern lines as a consequence of the eastern lines extending their rates to St. Louis. The fact that the West Side Lines had to pay a toll to reach East St. Louis was never given consideration in fixing rates to and from St. Louis. State rates in Missouri to and from St. Louis are made by the Missouri Commission, and the Missouri Commission would not increase St. Louis rates to provide a bridge toll to East St. Louis. (Rec., pp. 324, 348-9.) Competition and commissions' decisions also prevented increases in St.

Louis rates. (Rec., pp. 354-360.) Even when the Commission authorizes higher East St. Louis rates than St. Louis rates to cover bridge tolls the western carriers because of this competition can not avail themselves thereof. (Rec., pp. 359 and 360.)

Chairman Leland of the Southwestern Freight Bureau gave an extended history of joint through rates between Central Freight Association territory and Southwestern territory, which rates divide on East St. Louis, the witness desiring, however, that they should divide by allowing to the C. F. A. lines the figures that they now use to St. Louis instead of East St. Louis. (Rec., pp. 328-339.) East St. Louis rates are maintained on a parity with St. Louis by the southwestern lines to Texas not only because of the competition of the Cotton Belt, but because the rates to Texas are group rates and the St. Louis group is a large group, which goes over into Illinois quite a little ways; goes to Belleville. East St. Louis is one of the points in the group. (Rec., p. 338.) If the witness were testifying in a division case the testimony would be different from that which was offered: "I should have a great deal to say about the volume of the division as compared with the volume of the division. I am not talking about that at all." (Rec., p. 340.)

Exhibit No. 72 (Rec., p. 616) was offered to show history of class rates from a few points in C. F. A. and Eastern territory to St. Louis and East St. Louis. (Rec., p. 341.) The exhibit confirms Mr. Maxwell's testimony. By increase of the percentage in East St. Louis rate from 116 to 117 by the eastern lines in 1908, the eastern lines not only increased the local East St. Louis rate but the rate applicable on that through business on which the eastern lines received their local, and also on all the proportional rates from the East to the upper Mississippi River crossings. While the increase of 117 per cent was only slightly higher

than the previously existing rate to East St. Louis and insufficient to cover Mississippi River transfer, they offset to some extent the reductions which they had to give the St. Louis business interests by the proportions demanded on through traffic from the East and all the upper crossings applicable to Western Trunk Line Territory. (Rec., pp. 340-343, 367.)

The change in tariff note by the East Side Lines to prevent the application of St. Louis rates to through business made in 1915 and corrected in 1917, was a direct result of the efforts of the West Side Lines to compel the East Side Lines to accept east bound traffic at St. Louis. (Rec., pp. 343-344.) Exhibit No. 73 (Rec., p. 616) was offered to show that the East Side Lines got more on through business moving on East St. Louis combinations than they did on business delivered to the public in St. Louis, on which they had to pay a bridge toll. (Rec., p. 345.) By the revision of rates in C. F. A. territory, September, 1917, on a mileage basis in connection with the Disque scale under I. & S. Docket 965, the rates to and from St. Louis were made by using the scale based upon a distance arrived at by adding three miles to the actual East St. Louis mileage, applied to a group of territory east of and adjacent to St. Louis, affording the East Side Lines some compensation for the added distance across the Mississippi River. (Rec., pp. 347-8.) While there is considerable controversy in the record as to whether the Commission's decision in the *Warnock Case*, 21 I. C. C. 546, authorized the western lines to make proportional rates between Missouri River cities and east bank crossings, intending the rates to be applicable from St. Louis or East St. Louis, it is conceded that the western lines did publish the rates to and from East St. Louis and not St. Louis. (Rec., pp. 349-351.) Exhibit No. 74 was offered in connection with this controversy. (Rec., pp. 353-4.) The exhibit at page 616 showing basis

of rates from C. F. A. territory to Iowa cities, shows applications of western lines' proportionals to west bank crossings, Hannibal and north, but to East St. Louis and not St. Louis. Exhibit No. 75 (Rec., p. 616) offered at page 355 shows that to four points mentioned in Missouri, the West Side Lines have made lower rates from St. Louis for some classes of freight than permitted by the Missouri state scale, due to competition with the Chicago and Alton.

Witnesses expressed the opinion that the West Side Lines had no fear of diversion of business from them or to other routes should the Commission make the order which they sought. (Rec., pp. 361, 371.) Exhibit No. 76, also following page 616, was offered as a statement showing comparison of differentials, local rates and arbitraries breaking on East St. Louis on traffic from C. F. A. territory to Southwest. It relates only to joint through rates. At page 362 of the record the witness instances where the shrink of the western lines was greater than the shrink of the eastern lines, but from Detroit and Pittsburgh the shrink of the eastern lines seems to be the greater. However, joint through rates are not now involved.

The testimony of Mr. F. A. Adams, Asst. to the Freight Traffic Manager, C. R. I. & P. Ry. Co., pages 366 to 376, relates almost entirely to joint through rates and divisions thereof. He confirms other witnesses as to the practice of delivering line making delivery throughout the country. His attention being directed by the Examiner to a case of the carriers having two junctions and division sheets providing divisions on one of those junctions and asked whether he thought the divisions ought to be changed so as to make the divisions in effect break on the other junction, the witness thought the practice being shown to be improper it ought to be changed regardless of how the division sheet read, the impropriety in the practice being

that the West Side Lines pay the bridge toll in either direction.

> Q. "On joint rates, you have agreed to it, and your division sheets provide for that.
>
> A. "We are seeking under this complaint here to change that practice."

(Rec., p. 375.)

On cross-examination he conceded that the C. R. I. & P. when it came into St. Louis in 1903 had full knowledge of this situation. (Rec., p. 376.)

Mr. Stanage testified (Rec., pp. 376-383) as to ownership and operation of bridges across the Mississippi River and the Ohio River. As to those north of East St. Louis he testified that there were no transfer or switching lines operating between the line haul carriers on one side of the river and the other; that the carriers serving those river crossings do not publish and file with the Interstate Commerce Commission any tariffs naming separate bridge tolls between the east and west banks, and at none of them is there a meeting of the East and West Side Lines. (Rec., p. 380.) As to the southern crossings he testified that the Interstate Commerce Commission in Docket 12478 authorized the carriers to apply fixed ferry tolls for the trans-river service. (Rec., p. 383.) He did not testify as to who bore the bridge tolls either north of East St. Louis or on the Ohio River. Exhibit No. 77 was offered (Rec., p. 387) showing for the year 1924 railway operating revenues, net railway operating revenue, net ton miles per mile of road, for the west side and east side railroads involved in this case. It is the last of the printed exhibits. The miles of road shown did not differentiate between single and double track. The net railway operating income per mile of road is shown regardless of whether a single, double or four track line. The witness did not examine all the figures of

the C. & E. I., and did not know that it is a fact that that company failed to earn its fixed charges.

The foregoing is submitted as a fair summary of all the evidence and the character of evidence introduced on the hearing before the Interstate Commerce Commission, a transcript of which was offered and accepted in the hearing before the court below and constituted the only evidence submitted to the court.

ARGUMENT

It will be convenient to consider the points relied upon by the Appellants (Rec., pp. 624-625) in a somewhat different order from that in which they are there stated. We will therefore begin first with the fourth point.

4th. The controversy before said Interstate Commerce Commission in its said docket was one involving rates and divisions of through rates, and not one involving a "practice" within the meaning of that word as used in the Interstate Commerce Act.

The order in this case purports to change a "practice" and to require the establishment of a reasonable "practice." But what is the "practice" that the Commission in its report finds should be changed and what is the "practice" that the Commission in its order finds should be established?

The Commission in its report finds that the "practice" of the East Side Lines in requiring the West Side Lines to bear the transfer charges on westbound freight traffic moving through St. Louis and East St. Louis on combination rates which are the same on St. Louis as on East St. Louis is unjust and unreasonable. The order of the Commission requires the East Side Lines to establish, upon notice, filing and posting as required by section 6, and

thereafter to maintain and apply to the transportation of westbound freight traffic passing through both East St. Louis, Illinois, and St. Louis, Missouri, on combination rates which are the same on St. Louis as on East St. Louis and delivered to the West Side Lines or the Chicago, Burlington and Quincy or the Wabash the "practice" of bearing or absorbing on such traffic the charges for the transfer services from the lines of the East Side Lines in East St. Louis to the lines of the West Side Lines or of the Burlington or of the Wabash in St. Louis.

In short, the order goes solely to the payment of money in accordance with tariffs to be filed pursuant to that section of the Commerce Act having to do with tariffs of rates, fares and charges. It requires no change in the manner in which through westbound traffic is now handled through the East St. Louis-St. Louis gateway or the manner in which that traffic is interchanged between the East Side Lines and the West Side Lines. The physical operation surrounding the movement of through westbound traffic from the rails of the East Side carriers at East St. Louis to the rails of the east side of the West Side Lines at St. Louis is not required to be changed in any particular by the order and through westbound traffic will be handled and moved from the rails of the East Side Lines at East St. Louis to the rails of the West Side Lines at St. Louis in exactly the same manner as it has been handled and moved for many years. The report and order do not in any respect affect the handling of through westbound traffic as between the East and West Side Lines.

The report of the Commission reads in part as follows:

> "Defendants take the position that the word 'practice' as used in the Act relates only to matters between shippers and carriers and not to questions affecting the handling of traffic between carriers." (Rec., p. 18.)

But where in this case has there been any question affecting the handling of traffic between carriers? In what respect does the order of the Commission require any change in the handling of traffic by the East Side and the West Side Lines?

We direct this court's attention to the fact that the testimony of complainants' own witnesses showed that they did not expect that any change would or could be made in the manner in which through westbound traffic is now interchanged between the East Side Lines and the West Side Lines, whatever might be the order of the Commission. For example, Mr. F. G. Jonah, chief engineer of the St. Louis-San Francisco Railway Company, testified (Rec., p. 252) that it would not be practicable for the East Side Lines to undertake to make deliveries in St. Louis with their own power and he offered in evidence as Complainants' Exhibit 4 extracts from a report to the chairman of the Terminal committee of the St. Louis Chamber of Commerce by an engineers' committee appointed in July, 1920, to investigate among other things the railroad terminal situation in the St. Louis-East St. Louis industrial district, in which report it was stated that,

> "It was manifestly impossible for each railroad to provide terminals on both sides of the river and to provide its own river crossing facilities. Consequently it was natural that one company should develop such facilities for the use of all." (Ex. 4, pp. 6 and 7.)

Mr. B. H. Stanage, assistant freight traffic manager of the St. Louis-San Francisco Railway Company, very clearly brought out in the questions put to him on cross-examination (Rec., p. 199) that the West Side Lines did not contemplate that there would be any change made in the manner through which westbound traffic was interchanged between the East Side and the West Side Lines. The testi-

mony of the witnesses for the West Side Lines who were employed in the traffic department of those lines also made very clear the point that what they sought was an increase in their rates and divisions applicable to through westbound traffic by the amount of the charges of the bridge or terminal companies for the transportation of westbound traffic from East St. Louis to St. Louis and a reduction in the rates and divisions of the East Side Lines applying on such traffic by the amount of such charges. (Witness R. N. Nash, Rec., pp. 347 and 363; witness B. H. Stanage, Rec., p. 100; witness F. A. Adams, Rec., p. 375; witness Columbus Haile, Rec., p. 325.)

It was the revenues that they received out of this through westbound traffic that concerned them and not any sophistical theories respecting "practices."

The finding of the Commission is that the "practice" of the East Side Lines in requiring the West Side Lines to bear the transfer charges on westbound freight traffic moving through St. Louis and East St. Louis on combination rates which are the same on St. Louis as on East St. Louis will be unjust and unreasonable and that the just and reasonable practice with respect to all such traffic will be for the East Side Lines to bear or absorb all such transfer charges. And the order follows this finding.

It requires the East Side Lines to pay out of the revenues derived by them from their rates lawfully applicable to through westbound traffic the charges of the transfer or terminal companies for the transportation of such traffic from East St. Louis to St. Louis and relieves the West Side Lines from the payment of such charges, in the face of the fact that the rates of the East Side Lines lawfully applicable to such traffic do not extend and have never extended to St. Louis and do not cover and have never covered the service rendered by such transfer or terminal companies in moving such traffic from East St. Louis to St.

Louis, and the further fact that the rates of the West Side Lines lawfully applicable to such traffic have extended and extend from East St. Louis and cover and have since 1877 covered the services rendered by the transfer or terminal companies in moving the traffic from East St. Louis to St. Louis. The sole and only effect of the order, therefore, and this was the purpose which the West Side Lines had in mind in bringing the complaint, is to reduce the shares or divisions which the East Side Lines receive of the through combination rates which are not joint rates lawfully applicable to such traffic by the amounts of the charges of the terminal or transfer companies for the services they render in transporting the through westbound traffic from East St. Louis, Illinois, to St. Louis, Missouri, and to increase the shares or divisions of the West Side Lines lawfully applicable to such traffic by the amount of such charges. The complaint had no other purpose and the order has no other result.

Section 6, Paragraph (1) of the Interstate Commerce Act provides:

> "If no joint rate over a through route has been established, the several carriers in such through route shall file, print, and keep open to public inspection as aforesaid, the separately established rates, fares and charges applied to the through transportation."

The note in the tariffs of the East Side Lines drawn by the Chief of the Bureau of Tariffs of the Commission (Rec., pp. 261-262) is a clear compliance with that provision of the act, separately establishing the rates to and from East St. Louis as the rates of the East Side carriers applicable to traffic over through routes to and from points west of the Mississippi River, except where the St. Louis rates become applicable where the combination on St. Louis is lower than on East St. Louis, or except where an existing

lower combination exists via the route of movement. This insures the shipper the lowest possible combination rate. The order of the Commission has the unwarranted effect of compelling the East Side Lines to pay for transportation beyond the destination to which their rate applied, notwithstanding the fact that the tariffs of the West Side Lines declare that those lines hold themselves open to complete the transportation between East St. Louis and western destinations. In other words, it makes the East Side Lines pay for the performance of a duty for which, under the tariffs, the West Side Lines are liable.

The finding and order of the Commission in this case deal solely with the bearing or absorbing of charges, that is, with the payment of money. As the Attorney-Examiner who heard the case for the Interstate Commerce Commission said at the hearing (Rec., p. 189):

> "We know what Mr. Roberts (counsel for the West Side Lines) wants. He wants more money out of it and that is all."

Under the order no "practice" respecting the operating or the physical handling of through westbound freight will be changed. The sole and only effect of the order is to reduce the revenues derived by the East Side Lines from their rates lawfully applicable to through westbound traffic by the amount of the charges of the terminal or transfer companies which transfer the freight from East St. Louis to St. Louis and to increase the revenues received by the West Side Lines from such through westbound traffic by the amount of such charges.

The case may be viewed from another aspect. The through charges on through westbound traffic moving on the combination basis are now divided between the East Side Lines, the Terminal or Transfer Companies, and the

West Side Lines on the following basis: The East Side Lines receive as their earnings on such traffic their rates up to East St. Louis; the Terminal or Transfer Companies receive their charges for the transportation of the freight from East St. Louis to St. Louis; the West Side Lines receive as their earnings on such traffic the rates which they voluntarily established from East St. Louis less the charges of the transfer or terminal companies. The only effect of the order is to reduce the revenues of the East Sides Lines derived from this traffic and increase the revenues of the West Side Lines by the amount of the charges of the transfer or terminal companies. And this is done, as we shall later point out, *without any evidence that the proportions received by the East Side Lines as their earnings on this traffic are unjust and unreasonable when compared with the earnings of the West Side Line when consideration is given to the services performed by the East Side Lines as compared with those performed by the West Side Lines in the transportation of such through westbound traffic.*

Now the Commission itself recognized the essential nature of the controversy between these two sets of carriers when it said in its report:

> "In deciding what would be a reasonable practice primary consideration should be given to *what is a fair method of apportioning the revenue* regardless of the competition of the Alton." (Rec., p. 25.)

That is the real question and the real controversy between these two sets of carriers, *one respecting the apportionment of revenue.* Now there is only one section of the act which deals with the apportionment of revenue between the carriers and that is paragraph 6 of Section 15. The West Side Lines did not choose to bring their complaint under that section but sought to change the apportionment

of revenue as between two sets of carriers in the guise of fixing a "practice."

If the West Side Lines and the Commission are right in their construction of the law there could have been no possible need of the passage by Congress of paragraph 6 of Section 15 which specifically deals with the apportionment of revenue between carriers.

We very earnestly invite the court's attention to the fact that the essential character of this controversy between the East Side and the West Side Lines has been indubitably stamped as a rate and division case by the court itself in a very recent decision. (*Terminal Railroad Assn.* v. *United States*, 266 U. S. 17.)

It will be recalled that the question whether the Terminal Railroad Association of St. Louis and its subsidiaries and certain railroad companies owning the capital stock of the association constituted a combination in violation of the Sherman Act was before the court in *United States* v. *St. Louis Terminal*, 224 U. S. 383 and 236 U. S. 194, that the court indicated what should be done to abolish the obnoxious practices which brought the combination within the inhibition of the statute. Following these decisions of the court decrees were entered in the District Court in accordance with the directions of the Supreme Court.

In 1920 the West Side Lines filed a petition and motion in the District Court to have the Terminal Association, its subsidiaries, the East Side Lines, and their representatives on the board of directors of Terminal adjudged guilty of contempt of court for violating the decree. An examiner was appointed and, after the taking of evidence and the hearing, the court denied the motion to dismiss and entered a decree finding that the East Side Lines and the Terminal were in contempt of the court and were violating the decree in that, among other things, the West Side Lines

were compelled to pay the Terminal its transfer charge for operating and supplying facilities for the interchange of both through eastbound and through westbound traffic between the East Side and the West Side Lines, and, also, in that the East Side Lines were not paying the transfer charges of the Terminal on westbound through traffic. There was an appeal by the East Side Lines and the Terminal to this court which in *Terminal Railroad Association of St. Louis* v. *United States*, 266 U. S. 17 (October 13, 1924), held that the original decree did not require the East Side Lines to pay the charges for transferring through westbound freight; that the suit brought by the United States to prevent restraint of trade did not relate to the liability for transfer charges or to the division of joint rates, that the pleadings presented no issue between the East Side Lines and the West Side Lines. The court, in reversing the decree of the lower court, said:

> "The practice of 'breaking' the rates on westbound through freight at the east bank of the Mississippi River in East St. Louis has prevailed since 1877. That is, joint rates on freight moving from the east through St. Louis to points in the west have been considered as made up of an amount to cover the haul to the east bank of the river and an amount to cover the haul beyond that point. The former has been divided among the carriers hauling to the east bank of the river; the balance among those hauling from that point,—including the Terminal Association and its subsidiaries making the transfer from the lines on the east to the lines on the west side of the river. It has also been the practice at this crossing to 'break' the joint rates on eastbound through freight at the same time. All rates have been set forth by tariffs; and the divisions of the charges among the participating carriers have been shown by their division sheets filed with the Interstate Commerce Commission. The practice has been the same on all competing routes cross-

ing the river at points between East St. Louis and Dubuque.

The making of rates is a legislative and not a judicial function. *Keller* v. *Potomac Electric Co.*, 261 U. S. 428, 440; *Ohio Valley Co.* v. *Ben Avon Borough*, 253 U. S. 287, 289; *Louisville & Nashville R. R. Co.* v. *Garrett*, 231 U. S. 298, 305; *Interstate Commerce Commission* v. *Humboldt S. S. Co.*, 224 U. S. 210, 226. The division of joint rates is also legislative in character. *The Interstate Commerce Commission is authorized to establish through routes and joint rates and to prescribe conditions upon which such routes shall be operated, and to fix divisions of such rates among carriers.* Sec. 15 (1), (3), (6), Interstate Commerce Act, 418, c. 91, 41 Stat. 485, 486. *It is well settled as a general rule that the question of the reasonableness of rates or of divisions of joint rates will not be considered by the courts before application has been made to the Commission. Texas & Pacific Ry.* v. *Abilene Cotton Oil Co.*, 204 U. S. 426; *Robinson* v. *B. & O. R. R. Co.*, 222 U. S. 506; *Mitchell Coal Co.* v. *Pennsylvania Coal Co.*, 230 U. S. 247, 254-261; *Skinner & Eddy Corporation* v. *United States*, 249 U. S. 557, 562; *United States* v. *Abilene & Southern Ry. Co.*, 265 U. S. 274. The Terminal Association and its subsidiaries are common carriers by railroad and, like the proprietary companies, are subject to regulation by the Commission. *The original decree does not purport to regulate rates or prescribe divisions of joint rates, or fix liability for such transfer charges.* On the other hand, it expressly provides that it shall not affect in any wise or at any time the power of the Commission over charges to be made by the Terminal Association or its subsidiaries, or any power conferred by law upon the Commission. In the exercise of its powers under existing law, *the Commission is untrammeled by the decree and may make and regulate rates on through freight and the divisions thereof.* As the original decree does not prescribe charges or fix divisions of joint rates, contempt proceedings will not

> lie to determine whether the West Side Lines have paid more than their fair share of the charges for the services rendered by the Terminal Association, or to require the East Side Lines to make the payments specified in the decree appealed from."

The West Side Lines seem to be determined either to misconceive or evade the true nature of the controversy between these two sets of carriers. They urged in that litigation that the question whether the West Side Lines or the East Side Lines should pay the transfer charges on through westbound traffic was a matter covered by the decree in the anti-trust litigation. But this Court said it was not, that it was a matter involving rates and divisions and that it was one to be first determined by the Interstate Commerce Commission. They then brought their complaint before the Interstate Commerce Commission but contended that the real controversy was not at all one of rates and divisions as the Supreme Court found, but something else, that is alleged unreasonable "practices." Counsel for the West Side Lines vigorously insisted throughout the hearing before the Interstate Commerce Commission that under the issue raised in the complaint rates and divisions were not involved. (Rec., pp. 99, 184-190, 198, 300, 323.) But the fact remains that this Court has correctly apprehended the true controversy; it is a rate and division case and not a case involving alleged unreasonable "practices." And it must follow that the rates and divisions of the East Side Lines or of the West Side Lines lawfully applicable to this traffic and the revenues derived from such rates and divisions can not be reduced or increased except in a proceeding in which they are brought in issue and the Commission has such facts before it as would support a finding that the earnings of one set of carriers applicable to this traffic should be reduced and the earnings of the other set increased.

That we are right in our contention that the essential controversy between these carriers is one involving rates and divisions is shown by what the Commission itself said and did in its recent report in *Rates, Regulations and Practices of Peoria & Pekin Union Railway Company at Peoria, Ill.*, 115 I. C. C. 469. In that case as in this case there was a controversy between two different sets of carriers, those reaching Peoria from the East and those reaching Peoria from the West as to whose rates and divisions should be shrunk for the purpose of providing compensation to an intermediate switching line, the Peoria & Pekin Union Railway Company, which transported the traffic from the rails of one set of carriers to the rails of the other set. The Commission in that case did not undertake to fix a "practice" which would require the carriers reaching Peoria from the West to absorb certain switching charges out of their rates and divisions which they had not theretofore been required to absorb. The Commission treated it as a rate and division case, saying (p. 512):

> "*Obviously if the Rock Island and Burlington are now required to compensate the Union for its service on eastbound traffic it would result in diminished divisions to them under their present rates and proportions west of Peoria.* The fact that the M. & St. L. was formerly a tenant of the Union does not prove that it should receive revenues on similar traffic lower than the Rock Island and Burlington, particularly in view of its present financial condition.
>
> "Upon this record it appears that on through traffic via Peoria unjust, unreasonable, and inequitable divisions would accrue to the West Side Lines if they were required to absorb the interchange charges of the Union, in either direction, in effecting the transfer between them and the lines serving the Peoria district through East Peoria."

And the Commission required the establishment of joint through rates through the Peoria Gateway, fixed the divisions of those rates and found that under just, reasonable and equitable divisions of the joint through rates the lines reaching Peoria from the East should be required to pay out of their divisions the amount of the transfer charge of the switching line, the Peoria & Pekin Union, *in both directions*. We emphasize the fact that in the Peoria & Pekin Union case the Commission decided in effect that the East Side Lines, that is the lines reaching Peoria from the East, should bear the interchange expense on traffic in both directions. This conclusion could only be reached and was only reached by and after a consideration of the services performed by the East Side Lines on the one hand and the services performed by the West Side Lines on the other in the light of the compensation received by the East Side Lines as compared with that received by the West Side Lines. The question was one of adjusting the compensation to the service in so far as the through rates were concerned and the Commission did not attempt to deal with anything but joint through rates. It required the establishment of joint through rates in all cases in order that it might be in a position to consider and fix the divisions. The reasonableness of the divisions of the East Side Lines at Peoria as compared with those of the West Side Lines at Peoria, was one of the issues in the Peoria & Pekin Union case and as the report of the Commission indicates, there was a great mass of testimony dealing with the issue respecting divisions.

In the present case the complaint before the Interstate Commerce Commission filed by the West Side Lines purported to raise no issue respecting rates and divisions and counsel for the West Side Lines emphasized again and again that under the issues raised in the complaint rates

and divisions were not involved. The Commission itself said in its report:

> "It is sufficient to say that the West Side Lines stated early in the hearing that they desired to submit the case on the issues presented by them and the propriety of the divisions was not made the subject of inquiry and investigation." (Rec., p. 24.)

But just as the essential controversy in the Peoria & Pekin Union case was one involving divisions and was so treated by the Interstate Commerce Commission, so the essential controversy between the East Side and the West Side Lines at St. Louis is one respecting divisions and can be dealt with by the Commission only under those sections of the Interstate Commerce Act which give it jurisdiction over rates and divisions, and only after a consideration of those factors which the law provides must be considered in fixing rates and divisions. The proceedings before the Interstate Commerce Commission in the Peoria & Pekin Union case show very clearly just what must be done and what character of evidence must be introduced in such a controversy as exists between the East and West Side Lines.

A decree holding that the order of the Interstate Commerce Commission entered in this cause is invalid will not deny to the West Side Lines any remedy which they may have under the Interstate Commerce Act if they sincerely believe that their earnings derived from their rates and divisions on through westbound traffic are too low as compared with the earnings of the East Line Lines derived from such traffic, when consideration is given to the respective services performed by the two sets of carriers. It will only require them to proceed in this matter as the statute contemplates and requires they shall proceed. They have a remedy if their case is a meritorious one and this remedy is given them under the statute.

2nd. That which was declared by said Interstate Commerce Commission in its said order to constitute a "practice" is not a "practice" within the meaning of that word as used in the Interstate Commerce Act.

3rd. The Interstate Commerce Commission had no power under the sections of the Interstate Commerce Act referred to in its said report, or otherwise, to make the said order.

The finding of the Commission in its report is as follows:

> "We find that for the future the practice of the East Side Lines in requiring the West Side Lines to bear the transfer charges on westbound freight traffic moving through St. Louis and East St. Louis on combination rates which are the same on St. Louis as on East St. Louis will be unjust and unreasonable, and that the just and reasonable practice with respect to such traffic will be for the East Side Lines to bear or absorb all such transfer charges." (Rec., p. 26.)

And the order of the Commission requires the East Side Lines to establish, maintain and apply to the transportation of westbound freight traffic passing through both East St. Louis and St. Louis on combination rates which are the same on East St. Louis as on St. Louis and delivered to the West Side Lines or the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company the "practice" of bearing or absorbing on such traffic the charges for the transfer services from the lines of the East Side Lines in St. Louis to the lines of the West Side Lines or the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company in St. Louis.

Our first point is that the fact that the West Side Lines have since 1877 voluntarily published and applied from and to East St. Louis the rates that they have published

and applied from and to St. Louis and have undertaken since 1877 to provide and pay for such transportation services as might be required under the rates which they have voluntarily published and applied from East St. Louis on through westbound traffic is not a "practice" within the meaning of that word as used in the Interstate Commerce Act and within the meaning of that word as it has been construed by the United States Supreme Court. Nor can all the facts and circumstances shown of record or some or any of them be held to be a "practice" within the meaning of that word as used in the act.

The Commission in its report says:

> "Defendants take the position that the word 'practice' as used in the Act relates only to matters between shippers and carriers and not to questions affecting the handling of traffic between carriers. We do not agree with this contention. The word 'practice' as used in Paragraphs (6) and (11) of Section 1 and Paragraph (1) of Section 15 of the Act seems to us clearly to comprehend within its meaning the subject matter here presented. * * *" (Rec., p. 18.)

We invite the court's attention to its decisions construing the meaning of the word "practice" as it appears in Section 15 of the Act (*United States* v. *Pennsylvania Railroad Co.*, 242 U. S. 208). And we believe that we are justified in calling the court's attention to the fact that the Interstate Commerce Commission in reaching the conclusion it did in this case has so far as we have been able to tell ignored the meaning and effect of this decision. It is, however, referred to in the dissenting opinion of Mr. Chairman Eastman.

The Interstate Commerce Commission held in *Pennsylvania Paraffine Works* v. *P. R. R. Co.*, 34 I. C. C. 179, that it had the power under various sections of the act, includ-

ing Section 15 thereof, to require a carrier to furnish upon reasonable request and notice tank cars in sufficient number to move complainant's normal production of oil. The Commission in its report in that case made this statement respecting the argument of the defendant:

> "Defendant contends that the present case involves no rate, regulation, or practice, arguing that if it be a practice within the meaning of the Act for the carrier to furnish only 500 tank cars, it could be contended with equal reason that every detail of railroad operation is a practice within the meaning of the Act. Practice, it is contended, connotes a continued method of operation and not merely a single act."

We will first quote the provisions of Section 15 (paragraph 1) of the act:

> "That, whenever, after full hearing, upon a complaint made as provided in Section 13 of this Act, or after full hearing under an order for investigation and hearing made by the Commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the Commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this Act for the transportation of persons or property or for the transmission of messages as defined in the first section of this Act, *or that any individual or joint classification, regulation, or practice* whatsoever of such carrier or carriers subject to the provisions of this Act, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, the Commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare or charge, or rates, fares, or charges, to be thereafter observed

in such case, or the maximum or minimum, or maximum and minimum, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), *and what individual or joint classification, regulation, or practice* is or will be just, fair, reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed."

This Court said, immediately following a reference to Section 15 of the Act (p. 229):

"Applying the section, it is contended that the neglect to provide or certainly the refusal to furnish tank cars is a 'practice' and became especially so by the reply made by the railroad to the request to furnish them.

Let us test the contention and see where it takes us. The request was for a special facility, a combination of package and car, and the question then is whether the neglect to provide it or to furnish it was a 'practice' within the meaning of Section 15. The far-reaching effect of an affirmative answer is instantly apparent, and there must be hesitation to declare it from the use of so inapt a word as 'practice.' Following a well known rule of construction, *we must rather suppose its association was intended to confine it to acts or conduct having the same purpose as its associates. And there were many such acts for which the word could provide—practices which confused the relation of shippers and carriers, burdened transportation favored the large shipper and oppressed the*

small one. These were illustrations in decisions of the Commission. And this was purpose enough, remedied all that was deemed evil in privately owned cars of any type. Beyond that it was not necessary to go; beyond that there were serious impediments to going. and we cannot but believe that if beyond that it was intended to go there would have been explicit declaration of the intent, with such provisions as to notice and time preparation as its consequences would demand—not ambushed in obscurity and suddenly disclosed by construction to turn accepted custom into delinquency, a construction that could be disputed and was disputed."

The language used by the Court in this case in construing the word "practice" as it appears in Section 15 of the Act is equally applicable to the present case. The real controversy as we have pointed out between these two sets of carriers is whether the cost of transferring through westbound freight from East St. Louis to St. Louis should be paid out of the rates and divisions of the East Side Lines or the West Side Lines. The order does not affect in the slightest the physical operation. The clear and intended effect of the order is to require the East Side Lines to reduce their revenues and to increase the revenues of the West Side Lines. It is as the Commission itself said, a question of the *apportionment between the East Side Lines and the West Side Lines of the revenue received for the transportation of through westbound freight from point of origin to point of destination.* There was no question before the Commission in this case of the reasonableness of an individual or joint classification, regulation or practice of a common carrier under such rate. As this Court said respecting the use of the word "practice" in this act:

"* * * We must rather suppose its association was intended to confine it to acts or conduct having the same purpose as its associates. * * *"

The Court then went on to say that there were many such acts for which the word could provide—practices which confused the relation of shippers and carriers, burdened transportation, favored the large shipper and oppressed the small one. These are all matters of course that involve essentially the relationship between carriers on the one hand and shippers and consignees on the other.

It is clear that the word "practice" as used in Section 15 must be construed in connection with the words which just precede it: "classification" and "regulation," and that the three deal with the services rendered by a carrier to a shipper or consignee under a rate and the regulations, classifications and practices which have been established by a carrier and which surround, affect or control the services which a carrier rendered under a given rate.

And the fact will not be overlooked that the Court said that these are matters that have illustration in the decisions of the Commission. A reference to a few of these decisions will show that this statement of the Court is correct and that the Commission itself has construed the word "practice" as we here contend it should be construed. For example, in one case a carrier's failure to perform the service of icing shipments of milk while exacting rates which included such service was held to be an "unreasonable and unlawful practice." (*Borden's Farm Products Co.* v. *N. Y. N. H. & H. R. R. Co. et al.*, 92 I. C. C. 270, 102 I. C. C. 497.) In another case the Commission held that it could lay hands upon the "issuance, form and substance" of bills of lading under its power to prescribe regulations and "practices," the bills of lading setting forth the conditions under which a carrier accepts and transports freight under a given rate. (*In the Matter of Bills of Lading*, 52 I. C. C. 671, 696.) In another case the Commission found that the failure and refusal of a carrier to establish concentration and warehousing arrangements on cotton under rates

which a carrier had published, constituted an unreasonable "practice" and subjected a shipper to unreasonable rates. (*Montgomery Cotton Exchange* v. *S. A. L. Ry. Co.*, 100 I. C. C. 579, 587.) In the recent decision of the Commission in *Manufacturers' Association of York* v. *Pennsylvania Railroad Co.*, 107 I. C. C. 219, the Commission held that the "practice" of two carriers of extending the use of their tracks to each other for the purpose of terminal receipt and delivery of freight at industries in York, Pennsylvania, within a certain zone, thus giving such industries the benefits and advantages in service, rates and routes of location upon both lines while contemporaneously refusing to accord to shippers or industries on their lines without the zone similar benefits and advantages, was unduly preferential of the industries within the zone. It was a question of service to one set of shippers under the rates charged such shippers as compared with the service rendered under the rates charged other shippers who the Commission found were similarly situated. In another case (*Postal Telegraph-Cable Co.* v. *Western Union Telegraph Co.*, 59 I. C. C. 512) the Commission found that the "practice" of a telegraph company in refusing to extend credit for tolls on messages tendered to it by one of its patrons, another telegraph company, while granting credit generally for tolls on messages tendered by the same senders and others, was unjust and unreasonable. It was a question of the rules and regulations that one telegraph company itself had established surrounding the sending and receipt of messages, the Commission holding that the Act was broad enough to cover any unreasonable "practice" of a common carrier to one shipper or patron or all.

But the Commission in the present case was not dealing with the relations between the East Side Lines and their shippers or their patrons. Its order has no effect on the charges paid by the shippers. It had before it the com-

plaint of carriers who have no relation to the East Side Lines as shippers, consignees, or patrons but whose sole and only interest is in the share of the revenue that they receive on through westbound traffic.

The cases just cited and the other cases cited by the West Side Lines in their brief before the Interstate Commerce Commission in support of their contention that rates and divisions could be changed in the guise of establishing a "practice" without giving any consideration to the measure of those rates and divisions and the comparative services performed thereunder, show that in such cases the Commission had before it matters dealing with the "practices" or rules or regulations of a carrier which in some way or other affected or determined the service which it rendered to shippers and consignees. The cases did not touch an issue respecting the apportionment of revenue between two contending sets of carriers.

The Interstate Commerce Commission itself in a very recent case construed the word "practice" as it is used in Section 15 of the Act exactly as the Supreme Court construed it in *United States* v. *Pennsylvania R. R. Co. supra.* In the *Los Angeles Passenger Terminal Cases,* 100 I. C. C. 421, the question before the Commission was whether the Commission had the power to require carriers to construct union passenger stations under such conditions as were presented in those cases. The Commission, after pointing out that if recourse be had to its power under Section 15 to determine what "practice" in lieu of that found in violation of the Act would thereafter be a just, fair and reasonable one, it was met by the decision in *United States* v. *Pennsylvania Railroad Co. supra,* said (p. 427):

> "The Court especially referred to the word 'practices' as used in Section 15 of the Act, and to the contention that the neglect to provide or the refusal

to furnish tank cars was an unlawful 'practice,' the discontinuance of which we could require. The Court concluded that the collocation of the term with 'classifications' and 'regulations' was intended to confine it to acts or conduct having the same purpose as its associates, and that it was not to be understood in the broad sense contended. The Court noted that a contrary conclusion would apparently give us power to order enlargement of terminal facilities, increase in the number of locomotives, and extension of tracks or branches. After stating that if Congress had intended such consequence 'it would not have left its intention to be evolved from obscure language but would have put it in explicit declaration and with notice and time for accommodation to it,' the Court said:

'It is difficult to particularize all that the ruling of the Commission implies of power. *What of omission or commission in the carrier's relation to the public may not be said to be a practice or practices in the broad sense* attempted to *be given to those words?* A railroad's powers are its duties, bearing, of course, obligations; and all of them by the asserted construction are swept under the jurisdiction of the Commission—so swept by a single word, not of itself apposite, and determined besides, by its associates, against the contention. This was apparent to the dissenting commissioners and repelled their concurrence. Well might they have recoiled from going to such extreme upon doubtful implication and have been impelled to declare as they did declare that if such power was given it logically and necessarily extended to every facility of transportation.' "

Paragraph 6 of Section 1 of the Act upon which the Commission also relies, reads as follows:

"It is hereby made the duty of all common carriers subject to the provisions of this Act to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to

which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this Act which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this Act upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful."

Obviously this controversy has nothing to do with the establishment of just and reasonable classifications of property for transportation with reference to which rates, tariffs, regulations or practices may be prescribed. Nor has it anything to do with just and reasonable practices affecting classifications, rates or tariffs. There was no issue before the Commission in this case regarding the reasonableness of any rate or charge or the classification of property by a carrier for the purpose of rate making or the reasonableness of any regulation or practice affecting a classification, rate, or tariff. These are all matters that involve essentially the relation between a carrier on the one hand and the shipper or consignee on the other and they are inserted in the Act that not only may the rate itself be just and reasonable but that the rules, regulations and practices of the carrier under that rate, and which affect in some way or other the value of the service to a shipper or consignee that a carrier renders under such rates may also be just and reasonable.

Nor was there before the Commission in the present case any question respecting the regulations and practices affecting the facilities for transportation. There was no contention made that there was any shortage in such facilities or that the facilities were in any respect inadequate or insufficient. There was no contention made that these facilities should be changed in any way or that any other or different facilities should be provided.

Clearly this paragraph (par. 6 of Sec. 1) was written into the law to protect the shipper for it deals with matters that affect him alone. Its purpose was to insure that the shipper should not only have just and reasonable rates but that he should have just and reasonable regulations and practices surrounding the movement of his property which affect the value of the service received by him for which he pays a given rate. He is as much entitled to the one as to the other. This paragraph of the law deals solely with the relations between carriers on the one hand and shippers on the other. It can have no possible application to a case the essential controversy in which is, as the Commission itself found, one respecting the apportionment of revenue between carriers.

The Commission also relies upon paragraph 11 of Section 1 which paragraph must be read in connection with paragraph 10. We set forth below paragraph 10 and 11 of Section 1 of the Act:

> "The term 'car service' in this Act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this Act.
>
> It shall be the duty of every carrier by railroad subject to this Act to furnish safe and adequate car

> service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful."

These sections have no application to the controversy between the East Side and the West Side Lines or to the issue which the West Side Lines sought to raise in this case and upon which the Commission acted. They have to do with operating matters only. The case has not a thing to do with the use, control, supply, movement, distribution, cost, interchange or the return of locomotives, cars, and other vehicles used in the transportation of property. The order of the Commission requires no change whatever in the present manner in which through westbound traffic is now handled through East St. Louis and St. Louis.

Paragraphs 10 and 11 of Section 1 of the Act were before the Supreme Court in *Peoria & Pekin Union Ry. Co.* v. *United States*, 263 U. S. 528. The Court there said (pp. 533-534):

> " * * * But 'car service' connotes the use to which vehicles of transportation are put; not the transportation service rendered by means of them. Cars and locomotives like tracks and terminals are the instrumentalities. To make these instrumentalities available in emergencies to a carrier other than the owner was the sole purpose of subparagraphs a, b, and c. It is to this end only, that provision is made by Paragraph 10 for the 'movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property.' This is substantially the same expression as was used in the Esch Car Service Act. * * *"

Appended to this decision of the Supreme Court is an extract from the report of the House Committee on Inter-

state and Foreign Commerce, setting forth the purpose of the amendment.

The dissent of Mr. Chairman Eastman on this point is most apposite:

> "I am not persuaded that the conditions of which complaint is made in this case constitute a 'practice' within the meaning of Paragraph (6) of Section 1 or Paragraph (1) of Section 15 of the Interstate Commerce Act. Such an interpretation seems to me to be precluded by *United States* v. *Pennsylvania Railroad Co.*, 242 U. S. 208, where it was held, in substance, that the word must be confined to matters which affect shippers as distinguished from matters which affect only carriers, that is, matters which confuse the relations between shippers and carriers or burden transportation, or favor a large shipper and oppress a small one." (Rec., p. 56.)

It may be helpful to consider the use of the word "practice" as it appears in other sections of the Act. Paragraphs 3 and 4 of Section 13 relate to rates, fares, charges, classifications, regulations or *practices* made or imposed by the authority of any state which cause any undue or unreasonable advantage, preference or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other. The Commission under paragraph 4 is authorized to prescribe the rate or charge thereafter to be charged and the classification, regulation or *practice* thereafter to be observed in such manner as in its judgment will remove such advantage, preference, prejudice or discrimination. The word "practice" as used in these two sections cannot in view of the plain language of these sections, to say nothing of what the Supreme Court said in the *Pennsylvania Case, supra,* be construed in any other sense or way except in

connection with what precedes it. It relates to matters and things that are connected with rates that the shipper pays, it refers to and includes the regulations prescribed by a carrier which surround the transportation of property and which affect in some way or other the value of the service to a shipper that a carrier renders under such rates.

That this is so shown by Section 208 (a) of the Transportation Act, 1920, which provides that:

> "All rates, fares and charges and all classifications, regulations and *practices in anywise changing, affecting or determining any part or the aggregate of rates, fares and charges or the value of the services rendered,* which on February 29, 1920 are in effect on the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by state or federal authority, respectively, or pursuant to authority of law. * * *"

Can there be any doubt that Congress intended that the word "practice" as it appears in other sections of the Act has any other or different meaning from the very clear meaning that Congress gave to it when it used the word in the section just quoted? It is obvious from this section that the word "practice" as used in these sections of the Act cannot possibly be construed to cover everything that a carrier does or may not do, but that it relates to matters between shippers and carriers which in some way or other change, affect or determine the measure or volume of the rate that is paid or some part thereof or the value of the service that is rendered thereunder. It has nothing to do with the apportionment of revenue as between the carriers themselves.

There is another recent decision of this which throws light upon the meaning of the word "practice" as used in the Act. In *Northern Pacific Ry. Co.* v. *Solum,* 247 U. S.

477, it appeared that the Northern Pacific had two routes between Duluth and other Minnesota points farther west, one intrastate with a heavy upgrade westward and the other interstate of lighter grades; that the Northern Pacific used in the absence of other shipping directions the former route for Minnesota traffic bound for Duluth and the latter for like traffic in the other direction. The charges under the interstate tariff were more than those allowed between the same points by the Minnesota law. This Court, in holding that the reasonableness of this "practice" of routing was an administrative question within the jurisdiction of the Interstate Commerce Commission, said (p. 483):

> "The Railway contends that, since the administrative question upon which its liability depends involves the reasonableness of a practice in interstate commerce and the traffic actually moved in interstate commerce, the Court had no jurisdiction to adjudicate the controversy until the administrative question had been determined by the Interstate Commerce Commission. The shipper, on the other hand, urges that the rule which requires such preliminary determination of administrative question by the Commission applies only to those cases where the question involved is whether a particular rate is unreasonable or whether a particular practice is discriminatory. But the rule is not so limited. It applies likewise, to any practice of the carrier which gives rise to the application of a rate. *Texas & Pacific Ry. Co.* v. *American Tie & Timber Co.*, 234 U. S. 138, 147; *Pennsylvania Railroad Co.* v. *Puritan Coal Co.*, 237 U. S. 121, 131; *Pennsylvania Railroad Co.* v. *Clark Brothers Coal Mining Co.*, 238 U. S. 456, 469. * * *"

Thus the Court again recognized that the word "practice" as it appears in these sections to which we have re-

ferred must be construed in connection with the words which precede it in these sections such as "classifications" and "regulations" and that all these are matters which relate to services that a carrier renders a shipper for a given rate and upon the measure, character or kind of which services the rate depends. They all relate to matters which involve the relationship between the carrier on the one hand and the shipper, who pays the established rate for such a service as is set forth in the published tariffs, on the other.

There was in this case no shipper complaining of either the rate paid or the measure or kind of services rendered under that rate or the classifications or the regulations or the practices that the carrier established and which affected determined or controlled the kind and character of the services that such carrier held itself out as rendering for that rate. The complaint was made by third parties who are neither shippers nor consignees, who neither pay nor bear any of the charges made by the East Side Lines for the services that the East Side Lines render under their rates. These West Side Lines who filed this complaint before the Commission are interested in the rates of the East Side Lines and the services that the East Side Lines hold themselves out as undertaking to perform under those rates only in so far as those rates affect the apportionment of the revenue on the through westbound traffic as between the East Side and the West Side Lines. And an issue respecting the apportionment of revenue as between two sets of carriers is not an issue respecting the measure or the reasonableness of the rates of one set of carriers alone or the reasonableness of the classifications, regulations and "practices" which affect or determine the services that the one set of carriers renders under those rates, but is an issue which involves the measure of the rate of one set of carriers as compared with the measure of the rate of the other set of carriers, consideration being given of course to the

services performed by the two sets of carries respectively under their rates, the transportation conditions surrounding the movement of traffic under the two sets of rates, and the other matters and things which the statute contemplates and requires shall be placed before the Commission in a case involving the apportionment of revenue between carriers.

The West Side Lines can have no possible complaint against the rates of the East Side Lines as such or the services that the East Side Lines render a shipper or consignee under such rates or the classifications, regulations and "practices" which the East Side Lines have established and which affect or determine the services that the East Side Lines hold themselves out as undertaking to perform under their rates. Any complaint that the West Side Lines have must be one which brings in issue the apportionment of the revenue on through westbound traffic as between the East and the West Side Lines. The Interstate Commerce Commission cannot possibly undertake to apportion revenue between the East and West Side Lines in the guise of fixing "practices" or anything else except in a case where an issue is specifically raised respecting the apportionment of revenue and upon a sufficient record.

We very respectfully submit that in the light of the language of these sections of the act upon which the Commission relies and the decision of the Supreme Court to which we have referred, the Interstate Commerce Commission has entirely misconceived and misconstrued the meaning of the word "practice" as it appears in the Act and that the order of the Commission predicated as it is upon such a construction of the word "practice" is based upon a mistake of the law and is beyond the power conferred upon the Commission by the Act.

8th. That which the Interstate Commerce Commission condemned as a "practice" was a "practice" for which the West Side Lines and not the East Side Lines were responsible.

We have shown that the fact that the West Side Lines have since 1877 voluntarily published and applied from and to East St. Louis the rates that they have published and applied from and to St. Louis and have undertaken since 1877 to provide and pay for such transportation services as might be required under the rates which they have voluntarily published and applied from East St. Louis on through westbound traffic, is not a "practice" within the meaning of that word as used in the Interstate Commerce Act. Our second point is that if these facts constitute a "practice" at all it would be a "practice" not of the East Side Lines but of the West Side Lines themselves and a "practice" voluntarily established and voluntarily maintained by the West Side Lines since 1877. The phrase "defendants' practices" appears in the Commission's report in several places and the finding is that the "practice" of the East Side Lines in requiring the West Side Lines to bear the charges of the transfer or Terminal companies for the transportation of through westbound traffic from East St. Louis to St. Louis will be unjust. The implication seems to be that the East Side Lines were responsible in some way or other for the publication by the West Side Lines of their St. Louis rates from East St. Louis. But the record and the Commission has found as we have pointed out that the publication by the West Side Lines in 1877 of their St. Louis rates from East St. Louis was wholly voluntary on their part, was made to meet the competition of the Chicago & Alton Railroad Company and that if the West Side Lines had not met this competition of the Chicago & Alton they would have been deprived of the tremendous volume of traffic which reached East St. Louis over the rails of the

East Side Lines. How can it be said under such circumstances that the voluntary publication by the West Side Lines of their St. Louis rates from East St. Louis, which of course carried with it the payment out of those rates of the charges of the transfer or terminal companies for the transportation of the traffic from East St. Louis to St. Louis, constituted a "practice" *of the East Side Lines?* The very statement of the question suggests the only answer that can be given and further indicates the plain error of law into which the Commission has fallen. The publication by the West Side Lines of their St. Louis rates from East St. Louis was a matter over which the East Side Lines had no voice, control, or direction; it was done voluntarily and this voluntary action on the part of the West Side Lines, which carried with it the payment out of their rates thus established the charges of the transfer or terminal companies, cannot possibly be changed into a "practice" of the East Side Lines.

We invite the court's attention to what Mr. Chairman Eastman said in his dissenting opinion on this point:

> "The report of the majority is based on the theory that the 'practice' attacked is a 'practice' of the East Side defendant lines alone. I can find no solid foundation for this theory. It is true that the tariffs of the East Side Lines contain a provision to the effect that where no joint rates are provided and the combinations are the same on St. Louis as on East St. Louis, through rates shall be made on the East St. Louis combination. But the West Side Lines had precisely as much right to publish a provision in their tariffs that in such cases the through rates should be made on the St. Louis combinations. They did not do so but allowed the tariffs of the East Side Lines to prevail on this point. Why? Apparently because they feared the competition of the Chicago & Alton, which receives traffic from the East Side Lines as a matter of necessity at East St. Louis.

It must be borne in mind that the West Side Lines originate more of the through traffic than do the East Side Lines. Potentially, from a traffic standpoint, they are more powerful factors in the situation than the East Side Lines and in a better position to impose their will. Why do they not do so, instead of turning to us for relief? Certainly not because of any inherent power which the eastern lines possess to dominate the situation by a 'practice.' The fair deduction is that the competition of the Chicago & Alton is the reason, and this deduction is supported by history. Through rates were made as they now are made, as I understand the record, beginning with the construction of the Chicago & Alton into East St. Louis in 1877, and long before the East Side Lines extended their local East St. Louis rates across the river to St. Louis.

If the West Side Lines are dissatisfied with existing conditions, let them withdraw from the 'practice' attacked, provide in their tariffs for the 'practice' which they desire, and refuse to absorb the charges of the Terminal Association on westbound traffic. There would then be an issue with which we probably should have to deal; but no such issue now exists and, as I see it, the 'practice' in question is as much a 'practice' of the West Side Lines as it is of the East Side Lines." (Rec., pp. 57 and 58.)

The East Side Lines stand in this controversy just exactly where they have always stood. Neither their rates nor divisions lawfully applicable to westbound through traffic have ever applied beyond East St. Louis. The rates and the divisions of the West Side Lines have on the contrary since 1877 uniformly applied from East St. Louis and have covered such transportation services as are necessary to move the traffic from East St. Louis.

The facts of record cannot possibly be turned into a "practice" of the East Side Lines. If there is any "practice" about them at all it is a "practice" of the West Side Lines.

The Commission says in its report:

> "The fact is that finding opportunity there, defendants (the East Side Lines) took advantage of it to require complainants to continue to pay the transfer charge not only on eastbound traffic but also on westbound traffic." (Rec., p. 25.)

And the order itself directs the East Side Lines to cease and desist from the practice of "requiring" the West Side Lines together with the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company to bear the charges for the transfer service from East St. Louis to St. Louis on westbound through freight traffic passing through both points on combination rates which are the same on St. Louis as on East St. Louis.

But the East Side Lines never required the West Side Lines to establish their St. Louis rates from East St. Louis, the establishment of which rates carried along with it the payment by the West Side Lines of the transfer charge. This was a voluntary act on the part of the West Side Lines as we have shown and it is directly contrary to the evidence of record to find that there has been any "requiring" by the East Side Lines of what the West Side Lines have voluntarily done since 1877. The West Side Lines are the ones who through all these years have acknowledged that they were required to apply from St. Louis rates from East St. Louis in order to meet the competition of the Chicago & Aiton Railroad Company and of the other roads who have had their own rails to East St. Louis and are not required to handle traffic through St. Louis.

The record will simply not support any finding that the East Side Lines have "required" the West Side Lines to apply their St. Louis rates to and from East St. Louis.

5th. The Interstate Commerce Commission had no substantial evidence before it to support its order changing rates and divisions of through rates.

6th. Said Interstate Commerce Commission disregarded the various elements, which by the terms of the Interstate Commerce Act, said Commission is required to consider in a case which involves rates and divisions.

It was the plain and express purpose of the Commission in making the order it did to make an apportionment of the revenue on through westbound traffic as between the East and West Side Lines.

This it did by compelling the East Side Lines to pay out of revenues lawfully belonging to them under their tariffs for transportation to East St. Louis, the amount of the charges of the Terminal or other transfer companies for the transportation from East St. Louis to St. Louis, for which last transportation the West Side Lines are paid under their tariffs naming rates from East St. Louis to western destinations, and the charges for which they have heretofore borne in accordance with such tariffs.

This being so, what evidence would have been necessary in a case involving the apportionment of revenue between the two sets of carriers and in which case one set of carriers sought an increase in the revenues received by them from through traffic and reductions in the revenues received by another set of carriers on the same traffic? What is the kind and character of evidence that the Commission would have to have before it to support a finding that there was any injustice or inequality in the apportionment of revenue as between two sets of carriers?

It must be obvious that in the first place there would have to be a showing of the rates and divisions of the one set of carriers, the distances for which those rates and divisions apply and the services of transportation which

the one set of carriers undertakes to render under those rates and divisions as compared with the rates and divisions of the other set of carriers, the distances for which those rates and divisions apply and the transportation services which such set of carriers undertakes to render for such rates and divisions. That is to say, the record must contain a showing of such facts as will enable the Commission to consider the services performed by the one set of carriers as compared with those performed by the other set, in the light of the compensation received by the one set of carriers as compared with that received by the other set. The Commission would furthermore have to have before it rates and divisions in such number as would be typical of the situation. In *United States* v. *Abilene & So. Ry. Co.*, 265 U. S. 274, the Court, through Mr. Justice Brandeis, said (p. 291):

> "It cannot be inferred that every existing division of every joint rate is unjust as between particular carriers, because the aggregate result of the movement of the traffic on joint rates appears to be unjust. These aggregate results should properly be taken into consideration by the Commission; but it was not proper to accept them as a substitute for typical evidence as to the individual joint rates and divisions. In the *New England Division Case* (261 U. S. 184) tariffs and division sheets were introduced which, in the opinion of the Commisison were typical in character, and ample in quantity, to justify the findings made in respect to each division of each rate of every carrier. A like course should have been pursued in the proceeding under review."

Now the record in the present case may be searched in vain for any evidence touching the matters and things we have just referred to with respect to the rates of the East Side Lines up to East St. Louis applying on this through

westbound traffic or the rates of the westbound traffic applying beyond East St. Louis on that traffic. Evidence dealing with the circumstances and conditions surrounding the transportation of traffic by one set of carriers as compared with the circumstances and conditions surrounding the transportation of the traffic by the other set of carriers would include such statistics as the net ton miles, the freight ton miles, the freight locomotive miles, the freight car miles, the per cent of loaded to total car miles, the empty car miles, the freight cars per train, the tons per loaded car, the tons per car mile, the tons per train and other similar matters. The evidence before the Commission in this case does not touch upon any one of these matters.

The statute itself which deals with the apportionment of revenue between carriers sets forth some of the things to which the Commission is required to give due consideration. (Par. 6 of Sec. 15 of the Act.) It says:

> "* * * In so prescribing and determining the division of joint rates, fares and charges, *the Commission shall give due consideration, among other things,* to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge."

There is no evidence before the Commisison in this case dealing with the efficiency with which the East Side Lines

are operated as compared with the efficiency with which the West Side Lines are operated. There is no evidence dealing with the amount of revenue required by the East Side Lines to pay their operating expenses, taxes and a fair return on their railway property held for and used in the service of transportation as compared with the amount of revenue required by the West Side Lines for the same purpose? There is no evidence whatever dealing with the importance to the public of the transportation services of the East Side Lines as compared with the transportation services of the West Side Lines. There is no evidence of any fact or circumstances which would without regard to the mileage haul entitle the one set of carriers to a greater or less proportion than another set of carriers of the revenue received from the through westbound traffic.

The report of the Commissioner in the *Peoria & Pekin Union case*, 115 I. C. C. 469, will indicate the facts which the Commission should have before it in a case involving the apportionment of revenues between carriers and the facts to which the Commission gives consideration in passing upon such a question. Among the other facts which were offered in evidence in the Peoria & Pekin Union case and to which the Commission gave consideration were the following: The rate of return of the one set of carriers based upon their investment as shown by their books as compared with the rate of return of the other set of carriers; the financial condition on the whole of the one set of carriers as compared with the financial condition of the other set of carriers; the average railway operating revenue per mile of line of all the carriers in the one district as compared with all the carriers in the other district; the operating ratios of the two sets of carriers; the density of traffic of the two sets of carriers; the commodities which constitute the bulk of the traffic on one set of carriers as

compared with the commodities that constitute the traffic on the other set of carriers; the rate levels in the territory through which the one set of carriers operates as compared with the rate levels in the territory through which the other set of carriers operate; the length of the hauls under the rates and divisions of one set of carriers as compared with the length of the hauls under the rates and divisions of the other set of carriers and the ton-mile earnings under such rates. The Commission said in part in its report in that case (p. 506):

> "In order to be helpful, exhibits dealing with divisions like those covering rates should give either the distances over the direct routes or the average distances over all lines, or the average hauls of all actual shipments."

There was no evidence of the kind and character that the Commission had before it in the Peoria & Pekin Union case that was offered before the Commission in this case.

The reason why the West Side Lines offered no testimony of the kind and character that we have just referred to is not far to seek. The West Side Lines vigorously insisted throughout the hearing before the Commission that the case did not involve rates and divisions, but alleged unreasonable "practices." Indeed, one of their own witnesses (Mr. F. H. Leland) said (Rec., p. 340), that if he should testify in a case involving the divisions of rates between lines in the Central Freight Association territory and the Southwest he would have had a great deal to say about the volume of the divisions as compared with the volume of the rate; that he was not talking about that at all.

It may here be said that the West Side Lines on rebuttal introduced some exhibits purporting to deal with rates and divisions. For example, their Exhibit 72 is a historical statement of the class rates from a few eastern points to

St. Louis and East St. Louis. But no distances were shown and there was no exhibit offered in evidence comparing those rates and the services rendered under those rates with the rates, the distances, and the services rendered under the rates of the West Side Lines from East St. Louis to destinations west of St. Louis. Exhibit 73 is a statement of the through rates and the divisions thereof from various points east of the Mississippi River to destinations in Kansas on shipments moving in the year 1917. A case involving rates and divisions could not be tried out on the basis of the rates and divisions in effect nine years prior to the date of the hearing. No mileage is given of the hauls on either side of the river and the Exhibit is valueless as a comparison of the measure of rates and service.

Exhibit 74 is merely a statement showing the basis for the construction of rates from Central Freight Association territory to cities in the State of Iowa. No distances are shown and there is nothing whatever in this exhibit that throws any light upon the question whether the apportionment of the revenue as between the East and the West Side Lines on through westbound traffic in any respect unjust or unreasonable. Exhibit 75 is a statement of the rates from St. Louis to four points in southwestern Missouri with the rates to such points based on the Missouri state mileage scale. Exhibit 76 is a statement of the differentials over St. Louis in the rates to certain points in the Southwest, the local rates up to East St. Louis and St. Louis, and the arbitraries to East St. Louis. Only four groups of origin are shown, the destinations are for the most part grouped, and rates are shown on only five classes and six commodities. No distances are shown and it is wholly impossible from this exhibit to make any comparison of the services rendered by one set of carriers under the divisions they receive as compared with the

services by the other set of carriers under the divisions accruing to them. Furthermore, the exhibit deals only with traffic moving under joint through rates and this traffic is not covered by the order of the Commission in this case.

Exhibit 77 merely shows the railway operating revenues per mile of road, the net railway operating income per mile of road, the net ton miles per mile of road, and the miles of road operated of the East Side Lines and the West Side Lines. No evidence whatever was offered showing the investment in the properties of the East or West Side Lines, their present fair value, or the return which the carriers made under their operation for the year 1924 or 1925 on the value of their respective properties, and other similar matters which the statute contemplates and indeed requires the Commission shall have before it in a case involving the apportionment of revenue between carriers.

There was also testimony that because of the competition heretofore considered, or because of the orders of the State or Interstate Commissions, the West Side Lines could not raise their St. Louis rates to take care of bridge tolls to East St. Louis, and that the East Side Lines had slightly raised their rates to put St. Louis on a parity with East St. Louis, although not being enough to cover the bridge toll (Rec., pp. 324, 348-9, 354-360). The record, however, is wholly silent as to the comparative measure of rates on either side of the river considering service performed by each set of carriers, and the comparative needs of each to meet the burdens of operating costs and overhead. It does appear that the rates between St. Louis and the West and Southwest were sufficiently high to induce three carriers to go to the expense of crossing the Mississippi River twice to get the traffic offered, to-wit: the Alton, which to reach St. Louis crosses the Mississippi River at Louisiana

and East St. Louis, and the Cotton Belt and the East Side Line of the Missouri Pacific, each of which crosses at Thebes and East St. Louis.

Each of these three carriers accept and handle through business moving west on the basis of the East St. Louis combination, the same since the order of the Commission as before. The order of the Commission had no effect on the adjustment of through rates on a combination basis at East St. Louis between the East Side Lines and these three lines, who as the record shows, take and accept the business coming from the East Side Lines at East St. Louis without taking it across the river at East St. Louis. Nevertheless, out of their published rates from East St. Louis to western destinations, they must bear the expenses of transporting the freight across the river, whether they cross at Louisiana or Thebes. They do this in competition with the complainants before the Commission who do not have lines on the east bank of the river. Before the Commission's order all were on an equality; each bore the burden of transporting across the river. Since the order, the complaining West Side Lines have a distinct advantage in that they take the traffic involved, relieved of that expense. That expense is a considerable one. The Terminal's charge is 5 cents per hundred pounds on the first three classes; 3 1/10 cents on the fourth and fifth classes, and 2 7/10 cents on the sixth class. The Commission allowed at the southern crossing first an additional haul of twenty miles. Subsequently certain arbitraries beginning at 6½ cents for first class (Rec., pp. 359 and 389). In the light of these facts the testimony of Mr. Nash, a witness for the West Side Lines, found at page 360 of the record, is significant:

> "If the Commission should decide this complaint as complainants desire it to be decided, and such lines

> as the C. & A. should continue to accept business at East St. Louis and pay the bridge toll, the Frisco would take the business at St. Louis and let the East Side Lines pay the bridge toll, even if the C. & A. agreed to accept it at East St. Louis and pay the bridge toll. They would have to carry it across the river somewhere."

The complaining West Side Lines are trying to get an advantage without any cost to themselves, over both the East Side Lines and the defendant western lines, who are on the East Side. As was testified, "putting St. Louis on the map never cost the western roads one dollar" (Rec., p. 296). The putting of St. Louis on the map by the East Side Lines is the sole basis for this controversy. The West Side Lines are seeking an unearned increment. They have not shown, and apparently are unwilling to attempt to show, that they are entitled to it.

Now if the facts in this case constitute a "practice" within the meaning of that word as used in the act, certainly the Commission was in no position to determine whether that "practice" was unjust or unreasonable and whether as a result of a change in that "practice" the rates and divisions of the East Side Lines should be reduced by the amount of the transfer charges and the rates and divisions of the West Side Lines increased by a like amount unless the Commission had before it substantial evidence dealing with the rates and divisions of the two sets of carriers, the respective measure of those rates, and the comparative services performed thereunder, the distances, and other matters of a like character, including the matters and things which paragraph 6 of Section 15 of the act, dealing with the apportionment of revenue, requires the Commission to consider in a proceeding respecting the apportionment of revenue between carriers. It will be seen from what we have said and from the

exhibits which we have just described which the West Side Lines offered in evidence purporting to deal with rates and divisions, that there was no such evidence before the Commission in this case as would enable the Commission to pass upon the question involving the apportionment of revenue between carriers. The order of the Commission is without any evidence to support it.

To hold as does the Commission that the present "practice" of requiring the West Side Lines to bear the transfer charges on westbound freight traffic moving through East St. Louis to St. Louis on combination rates which are the same on St. Louis as on East St. Louis is unjust and unreasonable in that it is not disposed of on a reciprocal basis, is simply to state a conclusion based on one fact alone and that is the fact that the West Side Lines now bear such charges in both directions. The Commission in arriving at such a conclusion gave no consideration to the local circumstances and conditions at East St. Louis-St. Louis, the circumstances which prompted and indeed, according to the contentions of the West Side Lines, compelled them to apply their St. Louis rates from East St. Louis, the relative measure of the rates of the two sets of carriers, a comparison of the services performed thereunder, or similiar matters. The Commission's finding is essentially an arbitrary one.

If and when the West Side Lines follow the procedure provided for in the act for the determination of a controversy between two sets of carriers involving the apportionment between them of revenue on through traffic the East Side Lines will show that their present rates and divisions up to East St. Louis are wholly just and reasonable as compared with the rates and divisions of the West Side Lines beyond when consideration is given to the services rendered under those rates and divisions by the two

sets of carriers and the other matters and things that are pertinent and relevant and in fact required by the statute to be considered by the Commission in a case involving the apportionment of revenue between carriers.

We will show just as the carriers reaching Peoria, Illinois, from the West did in the *Peoria & Pekin Union Ry. Co. Case,* 115 I. C. C. 469, that under just and reasonable divisions the other set of carriers should bear the transfer charges in both directions. The fact will not be overlooked that in the *Peoria & Pekin Union Railway Company Case,* a case which involved the apportionment of revenue between two sets of carriers and in which there was a great mass of evidence dealing with the respective divisions of the two sets of carriers and the comparative services rendered by the two sets of carriers, the Commission found that the switching charges of the intermediate line *in both directions* should be borne by the lines reaching Peoria from the East who for many years had paid those charges.

We urge upon the court's attention the arbitrary character of the findings of the Commission as shown by the following: The Commission in the present case found that the usual "practice" among rail carriers is to divide the switching expense when the services of an intermediate carrier are utilized in affecting the interchange. It went on to say that this is the general "practice" of railroads throughout the country and that it believed it to be a just, fair and reasonable "practice" for general application. Yet it turned right around and in its decision in the *Peoria & Pekin Union Railway Company Case* found, after a consideration of the local conditions at Peoria and after giving weight to a comparison of the rates and divisions of the two sets of carriers and the services performed thereunder by such two sets of carriers and other

relevant and material matters, that at Peoria one set of carriers should bear the charges of the intermediate switching line *in both directions.*

7th. Even if that which was declared by the Interstate Commerce Commission in its report and order as constituting a "practice" was a "practice," the said Commission had no substantial evidence before it to support its finding that the "practice" was unjust and unreasonable.

Assuming only for the purposes of argument, that the facts complained of constituted a "practice" not involving rates and divisions, let us consider whether the testimony offered by the West Side Lines and considered by the Commission was sufficient to show that the alleged "practice" was unjust and unreasonable. This testimony consisted of statements, covering several hundred pages in the record, respecting investigations made by various witnesses of the West Side Lines of what was said to be the "practice" of the carriers in interchanging through freight at other points. (Witness B. H. Stanage, Rec., pp. 104, 182; witness C. C. P. Rausch, Rec., pp. 207, 211; witness James E. Hutchison, Rec., pp. 220, 223; witness H. R. Fertig, Rec., pp. 224, 234; witness R. C. Trovillion, Rec., pp. 238, 239.) The purpose of this testimony was to show which carrier, as between the carriers participating in the interchange of freight at a particular point, bears the cost of transporting through freight from one line to another in cases where two carriers connect direct and in cases where the service of an intermediate switching line is used to transfer traffic from one line to another in the same place or switching district.

As will be observed from a reference to this testimony, not one witness for the West Side Lines went beyond the bare statement that at a certain point one carrier deliver-

ing freight to another at that point assumes the cost of making the delivery. There was no effort whatever made by any of these witnesses for the West Side Lines to show that there was at any of these other points any such breaking of the rates as there is at East St. Louis; that the rates on through traffic of one set of carriers included the services only up to a certain point and that the rates of the other set of carriers had been established from that point and included whatever services were necessary to transport freight therefrom; that the agreed-upon divisions of the rates applying on through traffic moving through any one of these points had been fixed at such a point or station as to include the service rendered in moving freight from one carrier to another or that there was any such competitive situation at any one of these points as has existed at East St. Louis since 1877 and as exists at East St. Louis today and which brought about the establishment by the West Side Lines of their St. Louis rates from East St. Louis and the accompanying payment by them out of the rates of the transfer charges on through westbound traffic.

The West Side Lines in short did not undertake to show that the circumstances or conditions surrounding the interchange of freight at these other points or any of them were to any extent or in any respect comparable with those which gave rise to and which have since surrounded the interchange of through westbound freight traffic as between the East and West Side Lines. The West Side Lines developed no situation which was in any respect similar to that existing at East St. Louis-St. Louis.

It is significant that these witnesses said that they had not inquired into the rate situation at any of these points; that they confined their investigations to the *physical handling* of the shipment. (Witness, Stanage, Rec., pp.

198, 386; witness Fertig, Rec., p. 237.) We emphasize the point that the testimony of the witnesses for the West Side Lines respecting the alleged "practices" at other points merely described the physical interchange of shipments between carriers whose rails reach each one of these points. That is to say, their testimony related to the interchange of shipment between carriers whose rails meet or join in one switching district in one city or community. But this record shows that East St. Louis comprises one switching district and that St. Louis comprises another switching district; that the boundary lines of these two switching districts do not touch at any point; that the Mississippi River is between them. (Rec., pp. 260, 261.) East St. Louis and St. Louis are two separate and distinct industrial and governmental communities, separated by a great river. The issue which the West Side Lines sought to raise before the Commission was not one respecting the payment of charges for the interchange or the handling of traffic at East St. Louis between the East Side Lines and the West Side Lines that reach East St. Louis but one respecting the charges for the interchange or handling of traffic from the rails of the East Side Lines at East St. Louis which comprises one switching district and is a district governmental entity, across the Mississippi River to the rails of the West Side Lines at St. Louis, an entirely separate and distinct switching district and governmental entity. Obviously such a question must be entirely different from one respecting the payment of charges for the interchange of traffic between two sets of carriers in one city or in one switching district.

The Commission in its report made the following statement respecting this testimony of the West Side Lines:

> "In general support of their complaint the West Side Lines rely largely on the fact that it is the com-

> mon practice of carriers to reciprocally bear the burden of expense of transferring through traffic from one line to another. As a rule, the carrier which performs the inbound haul, the delivering carrier, switches or trucks the freight to its connection, or pays the expense of that service if performed by a third party. One of the few exceptions to this rule is found in other than trans-river traffic interchanged in the St. Louis-East St. Louis district where the receiving line bears the charge of an intermediate switching carrier. Among the few instances throughout the country in which reciprocity does not prevail is the situation here presented." (Rec., p. 20).

The Commission in announcing its conclusion said:

> "Defendants' practice is contrary to the generally accepted practice throughout the country. The usual practice among rail carriers is to divide the switching expenses when the services of an intermediate carrier are utilized in effecting interchange, the switching charge being absorbed by the carrier that delivers the traffic to its connection. There is a generally recognized obligation on the part of all carriers on through traffic to make delivery on the rails of their connections, either direct or by bearing the charges of the intermediate switching line, and this is the general practice of railroads throughout the country. We believe this to be a just, fair and reasonable practice for general application, and one which should be followed by the carriers serving the St. Louis-East St. Louis district. * * *" (Rec., p. 26.)

It will thus be seen that the Commission's findings are predicated upon a comparison of alleged "practices" at the East St. Louis-St. Louis gateway with alleged "practices" at other points in the face of the fact that there is no evidence of record which shows that the situation

at the other points, the alleged "practices" at which the commission uses as a standard, are in any respect comparable to the situation existing at East St. Louis-St. Louis. It is a well-established principle recognized by both the commission and the courts that comparisons are of no value unless accompanied by a showing that the circumstances and conditions are substantially the same (*Consolidated Lumber Co.* v. *Director General*, 101 I. C. C. 284; *Summerville Iron Works* v. *C. R. R.*, 101 I. C. C. 583; *Alton & Southern R. R. Co.* v. *Illinois Commerce Commission*, 316 Ill. 625, 147 N. E. 417; *Illinois Central R. R. Co.* v. *Railroad Commission of Kentucky*, 1 Fed. (2nd) 805.

The Commission, as we have just pointed out, found that the defendants' "practice" is contrary to the generally accepted "practice" throughout the country and that the usual "practice" among rail carriers is to divide the switching expense when the services of an intermediate carrier are utilized in effecting the interchange.

The fact of the matter is, however, that at the Ohio River crossing as the record shows (Rec., p. 314) there is such an overlapping in the rates but the southern roads pay the transfer charges across the Ohio River *in both directions*. It is important to observe that a witness for the West Side Lines (Mr. B. H. Stanage) described the physical handling of the shipments at the various Ohio River crossings as well as at crossings on the Mississippi River (Rec., pp. 383, 385), but made no reference to the manner in which the rates are made or the manner in which they break at those crossings and when he was asked on cross-examination a question respecting the rate situation at the Ohio River crossings, he said (Rec., p. 386):

> "I was dealing with the physical handling of the freight. * * *"

The Commission, furthermore, ignored the evidence showing that the same rate situation that was found at East St. Louis-St. Louis where the rates of the East Side Lines on through westbound traffic apply only to East St. Louis while the rates of the West Side Lines apply from East St. Louis is found at the crossings on the Mississippi River north of St. Louis. (Witness W. C. Maxwell, Rec., p. 287.)

If the Commission had measured or tested the reasonableness of the so-called "practice" at East St. Louis-St. Louis by the "practice" at other points where a comparable situation was found, it would have dismissed the complaint.

And the testimony of all the witnesses for the West Side Lines dealing with these alleged "practices" simmered down to the payment of transfer or switching charges. They all knew very well that what concerned them and the railroad companies for whom they work was the payment of the charges and the fact that their rates included the service of transporting freight from East St. Louis to St. Louis and that what they wanted was an increase in their rates by the amount of the transfer charges and to reduce the rates and the divisions of the East Side Lines by the amount of such charges. They were concerned about the payment of money out of their rates and divisions and not with any specious theories about "practices."

We respectfully submit that from whatever aspect the evidence offered by the West Side Lines be considered there was no evidence even if we assume that the facts referred to constitute a "practice" within the meaning of that word in the act, that such "practice" was in any respect unjust or unreasonable.

Mr. Chairman Eastman was exactly right in his dissenting opinion when he said:

> "But even if there were here a "practice" of the East Side Lines alone, what evidence is there that it is unreasonable? The mere fact that reciprocal deliveries are quite common throughout the country does not prove it to be unreasonable. Yet that is practically the only evidence presented." Rec., p. 58.

1st. Said order of the Interstate Commerce Commission was without any substantial evidence to support it and was arbitrary.

9th. The action of the Interstate Commerce Commission was based upon an erroneous construction of the Interstate Commerce Act, and deprives the plaintiffs herein of their property without due process of law, and is in contravention of the Constitution of the United States, and particularly the Fifth Amendment thereto.

If either of the contentions considered under the last two points be sound, it follows that the action of the Commission was without substantial evidence in support thereof, and its order was based on an erroneous construction of the Interstate Comerce Act, and unjustly deprives these plaintiffs of their property.

10th. Said District Court erred in failing to render a decree enjoining, setting aside, annulling and suspending the order of the Interstate Commerce Commission in the proceeding before it in its Docket No. 16697, bearing date July 12th, 1926, and permanently enjoining the enforcement of said order.

This point is a natural and inevitable consequence if we are right in any of the points for which we have hereinbefore contended.

We very respectfully submit, therefore, that the order of the Interstate Commerce Commission is invalid for the reasons above stated; that the District Court should have permanently enjoined the defendants and the intervenors from enforcing said order, and that the record being complete this Court should now order the District Court to enter such a permanent injunction.

Respectfully submitted,

D. P. Connell
Homer T. Dick
W. A. Northcutt
Guernsey Orcutt
Charles J. Rixey
Louis H. Strasser
W. J. Stevenson
Elmer A. Smith
Frank H. Towner
Morison R. Waite
Counsel for Appellants.

REPLY BRIEF

FILED
APR 6 1928
CHARLES ELMORE CRO
CL

In the Supreme Court of the United States

OCTOBER TERM, 1927

No. 404

THE BALTIMORE & OHIO RAILROAD COMPANY; WILLIAM W. WHEELOCK and WILLIAM G. BIRD, Receivers of THE CHICAGO & ALTON RAILROAD COMPANY; CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY; THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY; ILLINOIS TRACTION, INC.; ILLINOIS CENTRAL RAILROAD COMPANY; LITCHFIELD & MADISON RAILWAY COMPANY; LOUISVILLE & NASHVILLE RAILROAD COMPANY; MOBILE & OHIO RAILROAD COMPANY; THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD COMPANY; THE PENNSYLVANIA RAILROAD COMPANY; SOUTHERN RAILROAD COMPANY, and WABASH RAILWAY COMPANY,

Appellants,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY; MISSOURI, KANSAS-TEXAS RAILROAD COMPANY; MISSOURI PACIFIC RAILROAD COMPANY, and ST. LOUIS-SAN FRANCISCO RAILROAD COMPANY,

Appellees.

REPLY BRIEF FOR APPELLANTS

D. P. CONNELL, HOMER T. DICK, W. A. NORTHCOTT, GUERNSEY ORCUTT, CHARLES J. RIXEY, LOUIS H. STRASSER, W. J. STEVENSON, ELMER A. SMITH, FRANK H. TOWNER, MORRISON R. WAITE,

Counsel for Appellants.

CONTENTS

	PAGE
Introductory	1
Reply to Brief of Western Carriers	3
I. Facts	3
II. Division of expense of Terminal Association	9
III. Provisions of Commerce Act	9
IV. Appellants' Brief in Terminal Association v. U. S., 266 U. S. 17	13
V. Appellants' Affirmative Defense	15
VI. Decision by this Court in Terminal Association v. U. S., 266 U. S. 17	17
VII. Validity of Commission's order irrespective of the meaning of word "Practice"	17
Reply to Brief for Interstate Commerce Commission	18

TABLE OF CASES

PAGE

Armour & Co. v. Director General, as Agent, American Railway Express Co. et al., 60 I. C. C. 663, 665... 16

Brimstone R. R. & C. Co. v. United States, — U. S. — 22

Central Railroad of New Jersey v. U. S., 257 U. S. 247, 258 23

Chicago, M. & St. P. Ry. Co. v. Union Pacific R. R. Co., 88 I. C. C. 312 15

Chicago, Indianapolis & Louisville Ry. Co. v. United States, 270 U. S. 287 20

Consolidated Southwestern Cases, 139 I. C. C. 535, 541 5

Ex Parte 74, Increased Rates, 1920, 58 I. C. C. 220... 19

Five Per Cent Case, 31 I. C. C. 351, 399-403 25

Florida East Coast Line v. United States, 234 U. S. 167, 185 23

Hirth-Krause Co. v. Director General, 61 I. C. C. 350, 353 4

Investigation & Suspension Docket No. 2135, 91 I. C. C. 591, 595-596 16

Louisville & Nashville R. R. Co. v. United States, 238 U. S. 1, 11 .....16, 23

Los Angeles Switching Case, 234 U. S. 294, 314 13

Myrick v. Michigan C. R. Co., 107 U. S. 102 18

Pennsylvania R. R. Co. v. U. S., 236 U. S. 351 .....17, 20

Rates in Chicago Switching District, 34 I. C. C. 234, 242 17

Reciprocal Switching at Kansas City, 68 I. C. C. 591, 596 13

PAGE

Routing of Coal from Western Maryland Mines, 66 I. C. C. 103; 74 I. C. C. 127 15

St. Louis Chamber of Commerce v. Director General, 74 I. C. C. 308, 310 3

St. Louis Chamber of Commerce v. B. & O. R. R. Co., 57 I. C. C. 639, 641 3
57 I. C. C. 639, 640 8
57 I. C. C. 639, 650, 651 13

Terminal Railroad Association of St. Louis v. U. S., 266 U. S. 17 .....13, 17, 19

Texas & Pacific Ry. Co. v. Reiss, 183 U. S. 621 18

United States v. New York Central R. R., 272 U. S. 457, 462 20

United States of America v. Terminal Railroad Association of St. Louis, 224 U. S. 383; 236 U. S. 194.. 3

Wheeler Lumber Bridge & Supply Co. v. Director General, 59 I. C. C. 6, 9 4

STATUTES

Interstate Commerce Act

U. S. Code, Title 49, Chapter 1, 24 Stats. 379 as amended

PAGE

Section 1, Paragraph (3) 9

Section 1, Paragraph (4) 9, 21

Section 1, Paragraph (6) 11, 20, 23

Section 1, Paragraphs (10) and (11) 11

Section 3, Paragraph (1) 11

Section 3, Paragraph (3) 11, 17, 20

Section 6, Paragraph (1) 21

Section 13, Paragraph (1) 20

Section 15, Paragraph (1) 12, 20, 23

Section 15, Paragraph (3) 12, 23

Section 15, Paragraph (6) 12, 22

Section 15 (a) 4

In the Supreme Court of the United States

OCTOBER TERM, 1927

No. 404

THE BALTIMORE & OHIO RAILROAD COMPANY; WILLIAM W. WHEELOCK and WILLIAM G. BIERD, Receivers of THE CHICAGO & ALTON RAILROAD COMPANY; CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY; THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY; ILLINOIS TRACTION, INC.; ILLINOIS CENTRAL RAILROAD COMPANY; LITCHFIELD & MADISON RAILWAY COMPANY; LOUISVILLE & NASHVILLE RAILROAD COMPANY; MOBILE & OHIO RAILROAD COMPANY; THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD COMPANY; THE PENNSYLVANIA RAILROAD COMPANY; SOUTHERN RAILROAD COMPANY, and WABASH RAILWAY COMPANY,

Appellants,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY; MISSOURI, KANSAS-TEXAS RAILROAD COMPANY; MISSOURI PACIFIC RAILROAD COMPANY, and ST. LOUIS-SAN FRANCISCO RAILROAD COMPANY,

Appellees.

REPLY BRIEF FOR APPELLANTS

In both the briefs of the Western Carriers and the Interstate Commerce Commission, unsuccessful attempts

were made to state the contentions of the Appellants. In neither brief is any attention paid to the main contention of the Appellants, that the rates of the East Side Lines applicable to the traffic extend only to, and are confined to, East St. Louis; and that the rates of the West Side Lines extend from East St. Louis; and that the East Side Lines can not be compelled to shrink their earnings on those rates by the payment of services performed west of East St. Louis, without an attack upon and finding of the unreasonableness or other unlawfulness of the East Side Lines' rates to East St. Louis applicable to the traffic; and furthermore, that if there be such an attack and finding a reduction made from the earnings of the East Side Lines can not be turned over to the West Side Lines without a comparison of the rates and services of both sets of carriers and other matters that are appropriate to a division case. That fundamental proposition in this case is presented in the brief of the Appellants, and the argument thereon it is submitted, is not met but avoided by both briefs for the Appellees.

No attack has been made on the reasonableness and lawfulness of the rates of the East Side Lines applicable to this traffic. No finding that they are unreasonable or otherwise unlawful has been made by the Commission. No scintilla of evidence has been pointed out, or can be, in the extensive record of this cause.

No decisions of the Commission or the courts have been cited in the brief for Appellees to extend the application of the word "practices" to controversies such as this between carriers which in no way affect the public, either in the matter or manner of service performed for the public or the compensation paid by it.

REPLY TO BRIEF OF WESTERN CARRIERS

I

Notwithstanding the head-note of Item I, page 1, of the brief for the Western Carriers, it is submitted that there are certain inaccuracies to which the court's attention in the interest of accuracy, should be called, even though the facts are remotely concerned with the real issue in this proceeding, because on those facts certain of their arguments depend.

While the Interstate Commerce Commission as stated on page 3 of the brief in *St. Louis Chamber of Commerce* v. *Director General*, 74 I. C. C. 308, 310, did say that the distance between St. Louis and East St. Louis is usually figured on a three-mile basis, it went on to say that the hauls of the Terminal on trans-river shipments probably average around ten miles. The commission has permitted compensation for the expense of crossing the Mississippi River by the addition of twenty miles to the actual distance, or in lieu thereof, has fixed arbitraries beginning at 6½ cents for first class. (R. 358, 359.) The value of the bridges greatly exceeds the average value of railroad mileage; *St. Louis Chamber of Commerce* v. *B. & O. R. R.*, 57 I. C. C. 639, 641, and transportation costs through congested terminals greatly exceed average costs of transportation.

While it is probably immaterial whether trans-river freight traffic involved is termed switching service or not, the applicability of the term depends entirely upon its definition. The lawful activities of the Terminal were not limited by the decree entered pursuant to the mandate of this court in *United States of America* v. *Terminal Railroad Association of St. Louis*, 224 U. S. 383; 236 U. S. 194, Exhibit 50, (R. 525), to switching, but to "the transaction of a terminal business such as supplying and oper-

ating facilities for the interchange of traffic between railroads, and to assist in the collecting and distributing of traffic for the carrier companies, switching, storing and the like." (R. 525 and 529.) There is no doubt that, in the performance of the services, it was within its powers as limited by the decree.

In connection with the figures at the top of page 4 of the brief pertaining to expenses of transfer, attention is called to the fact that the figures did not include coal, and coal of course, is westbound traffic. (R. 246, 248, 250.)

It is true that the eastern carriers have received increases, but the western lines have also received increases. The Commission has endeavored to give to each what was requisite to comply with Section 15 (a) of the Interstate Commerce Act. Exhibit 72, referred to in the brief, confined this showing of increases to those received by the eastern lines. Since the increases shown there have also been decreases, so the value of Exhibit 72, which is made Appendix A of the brief as bearing on this controversy is not apparent. Notwithstanding the increases to the eastern carriers they still are considered by the Commission as having a lower basis of rates than those in other sections of the country; *Wheeler Lumber Bridge & Supply Co.* v. *Director General,* 59 I. C. C. 6, 9; *Hirth-Krause Co.* v. *Director General,* 61 I. C. C. 350, 353.

On the other hand in a very recent decision of the Commission in which the Southwestern Lines undertook to get an increase in class rates prescribed by the Commission, the latter said:

> "While defendants' petitions appear to overstate the situation with respect to class rates, we are prepared to accept as correct their contentions that on the whole the class rates prescribed are somewhat lower than the present rates, but that this condemns the bases prescribed by us does not follow. *The*

class rates to, from, and between points in the Southwest have been among the highest in the country, transportation conditions considered." (Italics ours.)

Consolidated Southwestern Cases, 139 I. C. C. 535, 541, decided March 6, 1928.

The statement at page 13 with reference to the agreements between the Terminal Railroad Association and its proprietor companies is misleading. The provision relating to the rights granted being appurtenant to the railroad at pages 15 and 80 of Exhibit 51, was limited to proprietary companies. This provision as well as the provision for the interchange of passenger and freight business with each other; the provision for the distribution of operation and maintenance expenses as equitably as possible (page 19); the provision that each company shall receive equal and impartial privileges in the use of the Terminal (page 22); the provisions against discrimination in favor of any company in the use of the Terminal system, or any part thereof, or in respect to the transfer or handling of cars, and the provision that each company shall have equal facilities and accommodations with all other companies (page 24), are all part of the agreement of 1889, when, and for almost twenty years thereafter, the West Side Lines paid voluntarily and without objection, the transfer charge on through business in both directions, and could not have been made with any expectation of a change in that situation.

The amendments made 1914 (pages 139 and 140 of the Exhibit) were inserted for the benefit of and referred to: (1) any new company not named as a party to the agreement, who should thereafter desire to become a member of the Terminal, and who should receive equal rights upon just and reasonable terms to place it upon a plane of equality with the parties to the agreement, and (2nd) to

any other railroad company not electing to become a joint owner, whose enjoyment was insured upon just and reasonable terms and regulations to place it as near as possible on an equal plane with respect to expenses and charges, as that occupied by the proprietor companies. All the railroads, appellees, were parties to the agreement then made, and the amendments did not change in the least their relations to the Terminal with respect to equality of treatment and use. The Missouri Pacific was one of the original proprietors in 1889, Exhibit 51 (page 14). The Frisco became a proprietor June 9, 1902 (page 47). The Chicago, Rock Island & Pacific, December 16, 1902 (page 63), and the M. K. & T., December 16, 1902 (page 71). This date was long before any complaint or objection to the payment of transfer charges in both directions. In other words, such payment did not then offend any provision of the agreement, and the agreement not having been changed in any respect bearing upon such payment, its terms have no bearing on the present controversy.

The extract from Exhibit 59, page 16 of the Western Carriers' brief, is from a report to the legislature by the Municipal Bridge and Terminal Commissioners made May 24, 1907, before the rates to and from St. Louis and East St. Louis were put on a parity, which did not occur until January 1, 1908. (R. 551, 571.) Exhibit 59, in which this extract appears is the so-called Powell Committee Report, which committee was composed of three representatives of West Side Lines, and three of East Side Lines.

Under the adjustment contemplated in 1905 when the first effort was made to satisfy the St. Louis interests, St. Louis was given a differential over East St. Louis effective January 1, 1906, which differential was reduced June 15, 1906 (R. 549, 550, 574). St. Louis was not completely "put

on the map'' by being given a rate parity with East St. Louis for distances of over 100 miles until January 1, 1908.

The letter of Mr. George H. Ross, page 17 of the Western Carriers' brief, was the occasion of a meeting of the St. Louis carriers on January 17, 1906. The plan of Mr. Ross was objected to by Vice President Grammer of the Big Four. All western lines were represented at the meeting excepting the Missouri Pacific and the Cotton Belt, "and advised that they had made no request for the adjustment referred to by Mr. Ross, and stated that any grievance of the Western Lines would be taken up with the Eastern Lines.'' (R. 549, 550.) So long as St. Louis and East St. Louis were not on a parity, the lowest possible combination of rates was on East St. Louis, and the West Side Lines could not and did not make objection to paying transfer in both directions until the rate parity of 1908.

Reference is made at page 6 of the Western Carriers' brief to the supposed bearing on this controversy of the fact that there are 13 trunk lines on the east side and 4 trunk lines on the west side, with equal representation on the board of directors of the Terminal Railroad Association. The actions, however, that are referred to in the brief at pages 19 and 20, are actions not of the directors of the Terminal, but of the carriers. The carriers on the east side are in the majority, but of that majority on the east side, four if not five, are West Side Lines; the Alton, the Burlington, the Wabash, and the Cotton Belt. The Missouri Pacific has lines on both sides. The Western Carriers, appellees, who are now complaining, are only half of the western carriers interested. In the brief of the Commission the action on the controversy in 1914 by the board of directors of the Terminal is mentioned at page 15. The attitude of the board of directors of the

Terminal is best shown by the minutes of the meeting of September 14, 1914. (R. 430, 435.) The Terminal had no power to make the eastern lines accept the shipments it tendered to them. It did not refuse to handle shipments on which the charges were not guaranteed until it had made repeated efforts to deliver to the East Side Lines, and its rails and facilities were so clogged up that the action had to be taken of refusing shipments, unless charges were guaranteed. In doing so it appealed to the carriers concerned to settle their differences.

The Commission did say that by the readjustment of 1908, St. Louis and East St. Louis "were treated *as* one community," as quoted at the top of page 16 of Western Carriers' brief, but even if true that does not mean that they thereby were made one community. They are two very distinct communities—to a considerable extent rivals—as well as separate governmental and geographical entities, and they are not entitled to the same rates and same treatment in all respects; *St. Louis Chamber of Commerce* v. *B. & O. R. R. Co.*, 57 I. C. C. 639, 640. They are really two communities, which for the majority of rates are placed in the same rate group.

At page 23 of the Western Carriers' brief it is stated that the list of stations where there is reciprocal interchange includes all the Mississippi River crossings, but the testimony relates to reciprocity at the stations on either side of the river and not to reciprocity in service across the river, with the exception referred to at Natchez. The rates break on the east bank of the river, and the expense of the river transfer comes out of that portion of the rate applicable to the transportation west of the river. (R. 257, 259, 304-306, 317.) The testimony in relation to the incidence of the expense of interchange is limited to that within one city, place, or switching district, not to

that which is involved in this case; transfer between two different cities from one switching district to another—a movement of great expense across one of the world's greatest rivers—and from a point where the rate breaks to another point, which transfer is within the limits of territory covered by the rates applicable thereto of one set of carriers and outside of the territory covered by the applicable rates of the other set of carriers.

II

What has been said heretofore in reference to the contracts between the Terminal and its proprietors answers the contention II of the brief for the Western Carriers. It can not be contended that the expense of the Terminal should be equally divided, only in proportion to use. The question is for whose use is the westbound transfer made, and its answer is not found in the Terminal contracts.

III

The Western Carriers at page 30 of their brief refer to paragraphs of the Commerce Act on which they rely. Of these, paragraphs (3) and (4) of Section 1 of the act were not relied on by the Commission, and were not considered in the brief for Appellants. Paragraph (3) of Section 1 is the definition section and imposes no duties. Paragraph (4) makes it the duty of the carrier to provide transportation upon reasonable request, establish through routes and just and reasonable rates; provide rates applicable thereto; to provide reasonable facilities for operating through routes; to make reasonable rules and regulations with respect to the operation of through routes, and provide for reasonable compensation to those entitled thereto. With respect to joint rates carriers are required

to establish just, reasonable and equitable divisions thereof. The Appellants have established through routes for through traffic via East St. Louis; have by tariffs with respect to those through routes established reasonable rates. With respect to joint rates they have participated in the establishment of divisions which are reasonable and not attacked. With respect to others of the through routes when the traffic moves on combination rates, they have established reasonable rates "applicable thereto," and those rates have not been attacked. Those rates on westbound traffic which are in issue in this proceeding, extend from point of origin to a junction of the next succeeding carrier at East St. Louis. Whether the connecting carrier be considered the Terminal or the West Side Lines is immaterial. Prior to 1908, when the East Side Lines made their rates to St. Louis and East St. Louis the same, the lowest combination made on East St. Louis, and were so made because of the action of the West Side Lines in extending their rates to East St. Louis for the purpose of getting the business available there, for meeting the competition that is, of the western carriers who came into East St. Louis from the north and south, crossing the river at points above or below. After the change of local rates to St. Louis, East St. Louis continued to be the proper rate breaking point, because no change was made in the rates applicable to through transportation. The same rules and regulations with respect to the operation of through routes continued applicable and were just as reasonable before as after the rate change, as the rate change had no effect whatever on through routes and rates and affected not one whit the duties, expense, or remuneration of the West Side Lines. No case or proceeding is cited whereby a carrier under the guise of changing rules, regulations or practices has been required

to extend transportation under a rate or division applicable to one point to another point beyond. To extend a rate applicable to one point to another point beyond is manifestly not a matter of practice, rule or regulation, but a rate matter, and to that aspect in this case, no consideration has been given by the Commission, nor was the Commission asked to give it by the complainants in the proceeding before the Commission.

The other paragraphs of Section 1 relied upon, namely: Paragraphs (6), (10) and (11), were treated extensively in the brief for Appellants and that argument need not be repeated.

The Western Carriers also rely on paragraphs (1) and (3) of Section 3, which were not referred to by the Commission. Paragraph (1) of Section 3 is the paragraph, of course, forbidding undue or unreasonable preference or advantage, and paragraph (3) of Section 3 is the requirement against discrimination in rates, fares and charges between connecting lines, and against the undue prejudice of any connecting line in the distribution of traffic that is not specifically routed by the shipper, and contains an injunction on the carriers to afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and the receiving, forwarding and delivering of passengers or property to and from their several lines and those connected therewith. The Commission found against the complainants on their claim of unjust discrimination or prejudice (R. 22, folio 30). The complainants before the Commission have not complained of the Commission's order, and it is submitted therefore, that there is no question of discrimination or prejudice before this court. It may be pointed out, however, that the Commission's order does demand preferential treatment. Counting the Missouri Pacific as two lines,

since it has lines into St. Louis from the west and into East St. Louis from the south, there are nine western lines in competition for trans-Mississippi through business. Five of these, the Alton, the Burlington, the Wabash, the Cotton Belt, and the Missouri Pacific-East Line, take the business at East St. Louis and carry it across the Mississippi river at their own expense. The other four lines come into East St. Louis through the Terminal for the purpose of getting that business in competition with the five lines, but under the Commission's order the East Side Lines are compelled to discriminate in favor of these four against the five by paying for these four West Side Lines, the expense of getting the business across the river, which is not done for the five other lines. It is submitted that order of the Commission requires the East Side Lines to give a preference to the four, as against the five.

Finally by their brief the Western Carriers rely on paragraphs (1) and (3) of Section 15. Paragraph (1) of Section 15 was extensively treated in Appellants' brief. Paragraph (3) of Section 15 authorizes the Commission after full hearing to establish through routes and joint rates and the divisions thereof. It is the contention of the East Side Lines, that if a proper case had been made the Commission did have power under that section on proper evidence and findings, but the complainants before the Commission avoided appealing to the Commission and objected to any consideration of evidence under that section, and of course, can not now rely upon it as authorizing an order in an entirely different proceeding. Manifestly also paragraph (6) of Section 15 is a limitation on the power under said paragraph (3), and the western lines deny the applicability of paragraph (6).

The road haul transportation duties of a carrier do not include the performance of services not covered by the

rate. In the Los Angeles Switching Case, relied upon by the Western Carriers it was found by the Commission that the rate covered the service, that the switching involved "no greater expense than would team track delivery." *Los Angeles Switching Case,* 234 U. S. 294, 314. See also *St. Louis Chamber of Commerce* v. *B. & O. R. R.,* 57 I. C. C. 639, 650, 651. No one yet has discovered a decision that a rate to East St. Louis imposed the duty of performing service beyond East St. Louis. All that is required under the rate to East St. Louis was done by the Eastern Carriers in delivery to and on the rails of the next succeeding carrier. They do today in obedience to the order of the Commission, precisely the same as before in making that delivery. No change was made by the order in the handling of the traffic. The East Side Lines *perform* no more *service* now than then. For the same service they receive less money. Not their service but their rate has been changed.

The Commission has said that an increase in the switching charges of connecting lines, the respondents, which are absorbed by another line, "would result in the transfer of additional revenue from this carrier to the respondents, which is equivalent to a change in the present divisional arrangements." *Reciprocal Switching at Kansas City,* 68 I. C. C. 591, 596.

IV

There is no admission in the quoted arguments of the East Side Lines from their briefs filed in *Terminal Railroad Association of St. Louis* v. *U. S.,* 266 U. S. 17, that the Commission could change the point of interchange so as to put greater expense on one carrier and reduce the expense of the other carrier without a consideration of the rates and divisions of each. If counsel had extended

their quotation from the brief two sentences they would have included the following:

> "There are some features of this case that make it especially important for this court to determine the validity of the decree as affecting this point of interchange, and in that way as affecting the division of rates between the East Side Lines and the West Side Lines."

A reading of the briefs will disclose that the matter of rates and divisions was strongly insisted upon as controlling the controversy and this court in its opinion adopted the theory that the controversy involved rates and divisions.

From the concluding paragraphs of the brief for the East Side Lines (Appellants) we quote beginning at page 45:

> "In examining this record the court will find a rate situation which has existed for forty years, and which exists not only at the crossing between East St. Louis and St. Louis, but at every crossing of the Mississippi River between East St. Louis and East Dubuque. If, therefore, either rates or divisions of rates are to be corrected it surely must belong to the Interstate Commerce Commission to make this correction * * *. The transfer must be paid for by somebody, either the East Side Lines or the West Side Lines. Rates and divisions have been for forty years adjusted between the East Side Lines and the West Side Lines to take care of this expense, and to attempt to shift it from one set of carriers to another set of carriers without readjustment of the entire body of rates and divisions is to attempt an impossible task * * *. Certainly the Board of Directors of the Terminal Company has the right to determine what shall be paid to the Terminal Company for this service, but as to who shall pay for the service is a matter of division of through rates * * *."

In the brief for the Commission in the instant case at page 44, decisions of the Commission are cited where it has changed points of interchange; *Routing on Coal from Western Maryland Mines*, 66 I. C. C. 103; 74 I. C. C. 127. *Chicago, M. & St. P. Ry. Co.* v. *Union Pacific R. R. Co.*, 88 I. C. C. 312. In those proceedings the Commission established through routes via junctions desired by the complainants, which gave them longer hauls on tonnage which they originated so as to give them greater revenue.

V

The affirmative defense of the East Side Lines did not need to be proved, because the complainants made out no case requiring such a defense. It was a fair notice to the West Side Lines of what was really involved in the controversy, of which they refused to avail themselves. They insisted in excluding all reference to the reasonableness of rates and divisions, and the record is silent on that point. (R. 184-190, 198, 300.) The defense, however, was proved by showing that on traffic moving on joint through rates the divisions were made to and from East St. Louis, and on traffic moving on combination rates the rates to and from East St. Louis applied under the tariffs applicable thereto. That is, on westbound through traffic the East Side Lines published rates applicable to such traffic only to East St. Louis, unless the combination rates on St. Louis were lower, and the West Side Lines published rates from East St. Louis. Until attacked and found unlawful these published rates were and are the lawful rates; that is, they must be considered as just and reasonable rates until the Commission in a proper proceeding has found otherwise. The complainants did not choose to attack these rates and the Commission made no finding against them. In such attack the burden was on them.

Louisville & Nashville R. R. Co. v. *United States,* 238 U. S. 1, 11.

Neither did the complainants undertake to show that they were entitled to greater revenue on westbound through traffic than they had received out of rates applicable thereto since 1877. The Commission said in *Investigation and Suspension Docket No.* 2135, 91 I. C. C. 591, 595-596:

> "We have often recognized the principle that the long maintenance of rates such as are here involved is evidence that the same are reasonably high. In Freight Rates from Minnesota Points, 32 I. C. C. 361, we said:
>
> 'Undoubtedly the fact that a rate has been voluntarily maintained by a carrier for a period of years is evidence tending to show that it is reasonably remunerative, and when such a rate is sought to be increased the burden on the carrier would seem to require stronger proof of justification than in a case where the proposed increase relates to a rate that has been in effect but a short time.' "

In another case it said:

> "The continued maintenance of the commodity rate on butter justifies the conclusion that defendants regarded it as a compensatory rate."

Armour & Co. v. *Director General, as Agent, American Railway Express Co., et al,* 60 I. C. C. 663, 665.

> "For each rate, a carrier offers and obligates itself to perform a certain amount of service. If the service so offered and for a long time performed in consideration of that rate includes taking the property transported from a given point and delivering it at a given point, the delivery at that point is in no sense a 'free service.' The carrier may increase the

> rate or it may curtail the service performed for that rate, but if such action is challenged it must bear the burden of showing that the new rate or service is reasonable and free from unjust discrimination."

Rates in Chicago Switching District, 34 I. C. C. 234, 242.

VI

Under this item the brief for the Western Carriers discusses the decision of this court in *Terminal Railroad Association* v. *United States,* 266 U. S. 17. The views of the Eastern Carriers were fully presented on this point in their original brief. (pages 40-43.)

VII

In this section of the brief the Western Carriers again rely upon the same sections of the act as under their Section III, page 30, in answer to which we endeavored to point out that the sections enumerated do not support the Commission's order.

The language of paragraph (3) (of Section 3) "afford all reasonable, proper, and equal facilities for interchange," is stressed and the contention made that the East Side Lines did not furnish equal facilities, because the West Side Lines were compelled to furnish all the facilities of interchange. It is submitted that there are two misconceptions here. First: this is in the section relating to preferences and the word "equal" must be construed in connection with the subject matter and its associates which clearly refer to all connecting lines who must be served without preference or discrimination as held in *Pennsylvania R. R. Co.* v. *United States,* 236 U. S. 351. Again, it overlooks the obligation under the rates of the West Side Lines to transport through traffic to East St.

Louis from the West and from East St. Louis to the West, and that at East St. Louis the East Side Lines before the order, treated all connections alike and did all that was required of them in the interchange of freight. The cases cited from the Supreme Court; *Myrick* v. *Michigan C. R. Co.*, 107 U. S. 102, and *Texas & Pacific Ry. Co.* v. *Reiss*, 183 U. S. 621, were correct in referring to the terminus of the originating carriers in those particular cases, but clearly points of interchange are not exclusively at the termini of carriers. Junction points for interchange of freight occur all along the line of every carrier in this country. The junction point to and from which rates are made, or via which through rates and divisions apply are necessarily the points at which the duty of delivery to a connection applies.

REPLY TO BRIEF FOR THE INTERSTATE COMMERCE COMMISSION

Counsel for the Commission have fallen into some of the errors of counsel for the Western Carriers with respect to the evidence, and what has been said in answer to Section I of the Western Carriers' brief is to some extent applicable to the comments in the Commission's brief on the same matter. At page 22, the case of the Cincinnati, Ohio-Covington, Kentucky gateway is attempted to be differentiated from that at the St. Louis-East St. Louis gateway, in that the lines of northern carriers do not extend to the south bank of the river. But their rates do. For traffic local to Covington the northern carriers pay the southern carriers for the transfer across the river, but on shipments for points beyond, the southern lines bear the whole expense. The situation is just the same as at St. Louis, in that the carriers on one side of the river

pay for more service on shipments local to points on the south bank of the river than they do on shipments for points beyond passing through these points on the south bank of the river. At the Louisville gateway the northern lines do extend to the south bank of the river, and the northern lines actually take the freight there and yet the southern lines pay the bridge arbitrary. (R. 314.)

At page 28 it is said that the East Side Lines added three miles to the actual East St. Louis mileage in computing their St. Louis rates, "this, of course, for the purpose of covering the expense of the river transfer." The three miles, of course, did not cover any considerable portion of that expense. The Commission's allowance for the Mississippi River arbitrary was twenty miles. (R. 358, folio 474.) The Terminal's charges were 7.4 per cent. of the Eastern Carriers' local rates on shipments listed in Exhibit 73. (R. 346.)

Reference is made to the increases obtained by the Eastern Lines but is silent as to the increases made to the Western Lines. The last general increases were made by the Commission in *Ex Parte* 74, *Increased Rates,* 1920, 58 I. C. C. 220, and the increases were made to put all carriers in the different rate groups on the same basis, and those increases were made having in mind the payment of the bridge toll in both directions by the Western Lines and not by the Eastern Lines. (R. 287 to 289.)

The argument of the Commission is that this court held in *Terminal Railroad Association* v. *U. S.,* 266 U. S. 17, that the order is within the power of the Commission. This court held that the Commission had jurisdiction under its power over rates and divisions; it did not hold that the Commission had jurisdiction under its power over rules, regulations and practices without consideration of rates and divisions.

With respect to practices the Commission's brief at page 39 sets out the essentials of paragraph (6), Section 1, from which it clearly appears that the practices, rules and regulations are limited to those "which may be necessary or proper to secure the safe and prompt receipt, handling, transportation and delivery of property subject to this act, upon just and reasonable terms." As we have heretofore stated the order of the Commission does not at all affect either the safe and prompt receipt, or the handling, or the transportation, or the delivery of property. All those things are done just the same under the order as before, and no claim was made, evidence introduced, or finding made with respect thereto. The language of this section is demonstrative of its purpose to benefit the shippers and consignees, and not to affect the division of compensation between connecting carriers, which is all that the order of the Commission accomplished. Paragraph (1) of Section 15 also quoted at page 40 of the brief adds nothing further to the definition of practices.

At page 43 of the brief for the Commission cases from this court are cited to the point that under Section 13 (1) the West Side Lines had a right to complain of any other common carrier of anything done or omitted to be done by the latter in contravention of the provisions of the act, but the cases do not hold that the requirements of the act with respect to "practices" relate to the relations of carriers *inter sese*. The cases cited, *Pennsylvania Co.* v. *U.S.*,236 U. S. 351; *Chicago, Indianapolis & Louisville Ry. Co.* v. *U. S.*, 270 U. S. 287, relate to discriminations between carriers, equality of treatment being expressly enjoined under Section 3 (3). *United States* v. *New York Central R. R.*, 272 U. S. 457, 462, relates to additional jurisdiction given to the Commission over rail and water

lines, and especially the jurisdiction of determining and prescribing the terms and conditions upon which connecting tracks between the rail and water lines shall be operated, and compensation therefor, including the establishment of through routes and joint rates, and also the terms and conditions under which they shall be operated. It is submitted that none of these cases tend to enlarge the definition of "practices" so as to include the present controversy.

The brief for the Commission recognizes very clearly that the controversy is one concerning rates and divisions. At pages 42 and 43 it is stated that:

> "the practice is one directly concerned with the application of rates. The Commission's order regulates the application of the existing rates; its effect is to require the application of the St. Louis combination on westbound through traffic, instead of the East St. Louis combination, to the end that the transfer charge will have to be paid by the East Side Lines out of their rate factor to St. Louis. Its further effect is to require the cancellation of the above-mentioned tariff provision of the East Side Lines."

This tariff provision is that by which pursuant to Paragraph (4) of Section 1, and Paragraph (1) of Section 6, the Eastern Carriers have established and published the East St. Louis rates as applicable to the through transportation. The word "practice" in a very broad sense covers everything which the carriers customarily do, including the making and publishing of rates, but the word is manifestly not used in any such sense in the act. The subject of rates and tariffs was fully covered prior to the inclusion of the word "practices" in the act. Therefore, it can not properly be used as a guise under which the rates may be changed without examination into

the reasonableness or lawfulness of the published rates, or to change the divisions of through rates, even if not joint through rates, without examination of the reasonableness and adequacy of the separate factors therein, and the respective abilities and necessities of the participating carriers. What the east side carriers object to is that the Commission has, as now admitted in its brief, changed these rates and divisions, while claiming only to affect a practice, without an attack, finding or evidence with respect to the rates or divisions which it has changed. No one disputes that the Commission has power to change rates and divisions when its jurisdiction is lawfully invoked for that purpose and proper evidence is submitted to it. The denial of power in the Commission in this proceeding to do what it has done, is made because its jurisdiction to do what it has done was not invoked, and no proper evidence submitted to it sustaining its order.

Again, at pages 48 and 49 the brief recognizes that the controversy is one regarding rates and divisions. With respect to joint through rates it is said the Commission could *upon proper evidence* (italics are ours) have fixed liability for the transfer charges by adjusting divisions, and therefore it would not be a reasonable or logical construction of the act that the Commission should have that power in instances where the traffic moves on joint through rates and should lack it in instances where the traffic moves on combination rates. Manifestly, for the exercise of the power in respect to joint through rates, the Commission would need evidence made necessary by Congress under Section 15 (6). *Brimstone R. R. & C. Co.* v. *United States*, — U. S. —, decided February 20, 1928. Is it a logical or reasonable construction of the act that while such evidence is requisite in the case of joint through rates, no evidence of the reason-

ableness of either rate in the combination or of what was relatively just compensation for the East Side Lines and what for the West Side Lines, is necessary when the Commission changes the divisions of through rates which are not joint rates? The Commission undertook to divide the total compensation between the East Side and West Side Lines without having before it such facts as would enable it to reach a conclusion as to what would be relatively just compensation. It is contended for the Commission at page 49, that the Commission had authority to do this under Paragraphs (1) and (3) of Section 15. These sections have primarily to do with the establishing of rates, and to establish rates the Commission must have evidence pertinent to the reasonableness of the rates determined upon and ordered to be published. It is true that the word "practices" is used in Paragraph (1), but it is not to be supposed that it was there used with a different meaning than as defined in Section 1 (6), or that by using the word "practices" Congress authorized the establishment of rates, or changing of rates, without evidence in regard to the rate involved. *Florida East Coast Line* v. *United States*, 234 U. S. 167, 185.

> "Where an existing freight rate is attacked, the burden is on the complainant to establish that it is unreasonable in fact. This is especially so where, as here, the rate has been in force for a long period during which time the traffic greatly increased in volume." *Louisville & Nashville R. R. Co.* v. *United States*, 238 U. S. 1, 11.

This Court said in *Central Railroad of New Jersey* v. *U. S.*, 257 U. S. 247, 258:

> "Congress could not have intended that under such circumstances relief should be afforded under Section 3 when a direct remedy is available under Section 1."

Similarly it must be apparent that Congress could not have intended to afford the same relief by the inclusion of the word "practices" as that which is directly available under the provisions of the law applicable to the reasonableness and lawfulness of rates and the divisions thereof.

The reduction of the revenue of the Eastern Lines under the tariff changes ordered by the Commission, is a very material one. From such various points of origin in C. F. A. territory and East thereof on the shipments shown in Exhibit 73, the loss was 7.4 per cent of the Eastern carriers' revenue as pointed out in the brief of the Commission at page 26. (R. 345-347.) This exhibit was based on rates prior to the 15 per cent advance allowed in 1917. Since then the rates both of the Terminal and the carriers have been increased, but probably the percentage of reduction will not differ very materially from the above.

The history of this rate situation is a demonstration of the necessity of considering the reasonableness of the rates and what is relatively just compensation between the East and West Side Lines before the Commission could lawfully order the change in tariffs which it has ordered, effecting as its order does, such a substantial reduction in the revenue of the Eastern carriers.

Prior to 1908 the rates of the East Side Lines were higher to St. Louis than to East St. Louis, and the rates of the West Side Lines the same from East St. Louis as from St. Louis. The combination on East St. Louis was the lower, which had the effect of making the rates break there. By the tariffs then in effect the Eastern Lines' transportation or road haul duties ended at East St. Louis, and the Western Lines' duties began there. The Western Lines could not and did not contend that

there was any injustice in their paying the transfer charge in both directions. The joint ownership of the Terminal existed then as now. The agreements governing the relations of the proprietary companies thereto were the same then as now. The practice of interchange at other points was presumably the same then as now. For two years prior to 1908 the East Side Lines made rates to St. Louis, and it was then as much a terminus of their lines as now. Nevertheless, it must be conceded that the Commission had then no power under the guise of establishing a practice to order the East Side Lines to pay the Terminal charges on westbound through traffic. The "practice" of the West Side Lines in paying the Terminal charge in both directions was a necessity under the West Side Lines' own tariffs in establishing rates to and from East St. Louis the same as to and from St. Louis. They did not want the four other carriers who were in East St. Louis to get all the business to be interchanged with the strictly Eastern Carriers, which other four did pay the expense of the Mississippi river transfer out of their East St. Louis rates. What these four Western Lines who were on the east side could afford to do, the four direct East Side Lines, appellees here, were willing and able to do to meet that competition. It was the rates and nothing but the rates that made that situation such as it was, and the rates were the voluntary rates of the West Side Lines. They willingly paid the price to do the business. There was no inequity or unreasonableness in it.

Did anything happen in 1908 that made it inequitable?

It must be remembered that at this time the C. F. A. rates, of common knowledge, were abnormally low and entirely inadequate. *The Five Per Cent Case,* 31 I. C. C. 351, 399-403.

This well-known fact explains why these C. F. A. lines were compelled to insist on their locals as their divisions of through rates, and the Western Lines were willing to bear the whole shrink in making joint through rates less than the sum of the locals. (R. 330-333.) It explains also why the Commission in attacks upon through rates found the proportion of the rate applicable west of the river to be too high and reduced it without reducing the proportion east of the river. (R. 278.)

Notwithstanding this low basis of rates St. Louis insisted on being put on a rate parity with East St. Louis. This the East Side Lines could not do without some return for the 7.4 per cent reduction that would be made in their revenues on St. Louis local business. Some of this was secured by increasing the East St. Louis rates from 116 per cent to 117 per cent of the New York-Chicago rate resulting in increases of one cent per hundred pounds on first class, one-half cent on second, third and fourth classes, and nothing on the fifth and sixth classes, which are the classes on whose rates moves the heavy tonnage carload freight. (R. 266.) These increases were much less than the bridge tolls. This, of course, had the effect of increasing those through rates which were made up of combinations of locals, so that for that through business the Eastern Lines got something to reimburse them in part for the loss sustained on the local St. Louis business, so long as the St. Louis local rates were not used as combinations of through rates to any great extent. But the whole was only partial reimbursement. As said by the witness for the Western Lines:

> "In order, therefore, to offset *to some extent* the reductions which they had given the St. Louis business interests, they added to the proportions which they demanded on traffic from the East to points in

Western Trunk Line territory, to which through rates were made on combination basis * * *." (R. 342, 343.)

"So again I say that the rates established by the East Side Lines to and from St. Louis have been made with *some consideration* of the added expense of getting across the river, and if they were not so made the opportunity has been before the East Side Lines to take care of this situation in 1907, and as to C. F. A. territory in 1917, and if they have not done so it is their own fault." (R. 348.)

It is thus admitted that there was some loss of revenue to the East Side Lines in putting St. Louis on the map, even when limiting the St. Louis rate to local business and continuing to apply the East St. Louis rate to through business. Consequently the East Side Lines did not publish their St. Louis rates as applicable to through business, except only in so far as it was necessary to do so to prevent Fourth Section violations. On through business the East St. Louis rates are published as the factor applicable to the transportation where the combination on St. Louis is not lower by the tariff note drawn by the Chief of the Bureau of Tariffs of the Interstate Commerce Commission. (R. 261-262.) The West Side Lines publish their rates to and from East St. Louis without any limitation. It is therefore the publication of rates in this manner by both the East Side Lines and the West Side Lines which fixes the incidence of transportation duties east and west of East St. Louis on through rates made on combinations, just the same now as prior to 1908. That incidence cannot properly be changed without a consideration of the propriety of these combination rates east and west of East St. Louis. These tariff provisions make East St. Louis the point where the rates break and the transportation duties begin and

end, as certainly as do divisions of joint through rates and combination rates made on proportionals applicable only to East St. Louis, as to both of which the Commission has not by its order undertaken to make any change under the guise of changing practice.

What justifies the West Side Lines in seeking an extension of the St. Louis rates to through business? Their service, expense or remuneration has not been changed by the step taken by the East Side Lines. The suggestion in the last quotation of the witness is that the East Side Lines could have obtained enough out of the public to enable them to pay the interchange on through business without loss, by increasing the local rates to St. Louis and East St. Louis sufficiently. But why should either the public or the East Side Lines pay the West Side Lines to keep up their competition with the Alton, the Cotton Belt and other western carriers on the east side? The Commission recently authorized the West Side Lines to make their East St. Louis rate by adding the usual bridge arbitraries to the St. Louis rate, but they will not avail themselves of the authority because they want the East St. Louis traffic, and to get it they must apply the St. Louis rate to East St. Louis. (R. 359, 360.) They want to eat their cake and have it too. They want the East Side Lines to pay them for meeting the rates of their competitors, which gives them an advantage over those competitors as heretofore pointed out. The only justification that there could be for the order of the Commission is that the rates of the East Side Lines are relatively higher compared with the West Side Lines, all factors being considered that are relevant to such an inquiry. The East Side Lines think that such an inquiry would demonstrate that they are not, and probably the West Side Lines take the same view for they avoid such

an inquiry, which is the only way the controversy can be justly settled.

It is said that the East Side Lines can afford to pay because they have had their rates raised (Western Carriers' brief, page 6), and because they are in a better financial condition than the Western Lines. (Commission's brief, page 53.) As to the first reason the relations of the rates of the two sets of carriers have not been inquired into. It has not been shown to what extent the Western Carriers have had their rates increased. It has not been shown in what relations the rates stood prior to the advances, nor has any showing been made on the question as to what are the comparative needs of each set of carriers, for which needs adequate rates must be provided. The record does show that in Ex Parte 74 the Western Carriers in 1920 had their rates advanced 35 per cent, while the Eastern rate group was given an advance of 40 per cent, and these were the advances which the Commission thought adequate to the needs of each to put them on the same earning basis under the Transportation Act, and it was based on the evidence of the Western Carriers as to their needs wherein they treated the payment of the transfer charge in both directions as one of their expenses. (R. 287-289.) As to the second reason there is no evidence in the record showing that the Eastern Carriers are in a better financial condition than the Western Carriers. Exhibit No. 77 which is the only evidence relied on in this connection, is wholly inadequate for that purpose. (Appellants' brief, page 74.) There is no evidence whatever as to the influence of the St. Louis rates on the financial condition of either set of carriers, whatever it may be.

It is respectfully submitted that the Appellees' briefs do not justify the order of the Commission.

Respectfully submitted,

D. P. CONNELL, HOMER T. DICK, W. A. NORTHCUTT, GUERNSEY ORCUTT, CHARLES J. RIXEY, LOUIS H. STRASSER, W. J. STEVENSON, ELMER A. SMITH, FRANK H. TOWNER, MORISON R. WAITE,

Counsel for Appellants.

CONTENTS

	Page
OPINIONS	1
JURISDICTION	2
QUESTION	2
STATUTES	4
STATEMENT	13
SUMMARY OF ARGUMENT	18
ARGUMENT	20
I. THE CASE CONCERNS A PRACTICE AND THAT ONLY	20
II. THE ANTECEDENT HISTORY OF TERMINAL RAILROAD ASSOCIATION v. UNITED STATES, 266 U. S. 17	31
III. THE AUTHORITY OF THE COMMISSION WAS CONCLUSIVELY DETERMINED BY THIS COURT IN TERMINAL RAILROAD ASSOCIATION v. UNITED STATES, 266 U. S. 17	38
IV. THE EVIDENCE TO SUSTAIN THE ORDER IS COMPLETE	43
CONCLUSION	49
APPENDIX A, Order of Commission of July 12, 1926	51
APPENDIX B, Extracts from briefs of Terminal Railroad Association and East Side Lines in *Terminal Railroad Association* v. *United States*, 266 U. S. 17, No. 115, Supreme Court, October Term, 1924	53
APPENDIX C, Statements of Representative Mann (Illinois), April 12, 1910, and May 5, 1910	60

CASES CITED

Borden's Farm Products v. *New York, New Haven & Hartford*, 92 I. C. C. 270; 102 I. C. C. 497	48
Brimstone Railroad v. *United States*, No. 240, Supreme Court, October term, 1927, February 20, 1928	21, 29, 30
Chicago, Rock Island & Pacific v. *Baltimore & Ohio*, 113 I. C. C. 681	1
Consolidated Lumber Co. v. *Director General*, 101 I. C. C. 284	49
Ex parte United States, 226 U. S. 420	49
In re Bills of Lading, 52 I. C. C. 671, 696	48
Interstate Commerce Commission v. *Chicago, Rock Island & Pacific*, 218 U. S. 88	48
Los Angeles Passenger Terminal Cases, 100 I. C. C. 421	48
Los Angeles Switching Case, 234 U. S. 294, 307	44
Louisville & Nashville v. *United States*, 238 U. S. 1, 17	29
Manufacturers Railway v. *United States*, 246 U. S. 457, 462	28, 31

	Page.
Myrick v. *Michigan Central*, 107 U. S. 102	47
New England Divisions, 261 U. S. 184	28, 30
New York Central v. *General Electric Company*, 219 N. Y. 227	47
Northern Pacific v. *Solum*, 247 U. S. 477, 483	29
O'Keefe, Receiver, v. *United States*, 240 U. S. 294	28
Pennsylvania Railroad v. *Clark Coal Co.*, 238 U. S. 456, 468, 469	29
Pennsylvania Railroad v. *Puritan Coal Co.*, 237 U. S. 121, 131	29
Pennsylvania Railroad v. *United States*, 236 U. S. 351	21
Pennsylvania Paraffine Works v. *Pennsylvania Railroad*, 34 I. C. C. 179	48
Peoria & Pekin Union Railway Rates, Regulations, and Practices, 115 I. C. C. 469	49
Postal Telegraph v. *Western Union*, 59 I. C. C. 512	29
Skinner & Eddy v. *United States*, 249 U. S. 557, 562	29
Somerville Iron Works v. *Central Railroad*, 101 I. C. C. 683	49
St. Louis-Southwestern Railway v. *United States*, 245 U. S. 136, 139	15
Tap Line Cases, 234 U. S. 1	28
Terminal Railroad Association v. *United States*, 266 U. S. 17, 27, 30, 31	18, 19, 28, 33, 34, 35, 41, 49
Texas & Pacific v. *Reiss*, 183 U. S. 621	47
United States v. *Abilene & Southern*, 265 U. S. 274	28, 30
United States v. *New York Central*, 272 U. S. 457, 462	21
United States v. *Pennsylvania Railroad*, 242 U. S. 208	25, 28, 48
United States v. *Terminal Railroad Association*, 215 U. S. 595	49
United States v. *Terminal Railroad Association*, 224 U. S. 383, 398	13, 31, 38, 49
United States v. *Terminal Railroad Association*, 236 U. S. 194	13, 49
Warnock v. *Chicago & North Western Railway*, 21 I. C. C. 546	48

STATUTES CITED

Interstate commerce act:	
Section 1, paragraphs (3) and (4), as amended by section 400 of the transportation act of 1920 (c. 91, 41 Stat. 456, 474, 475; U. S. C. title 49, sec. 1)	4
Section 1, paragraph (6), as amended by section 400 of the transportation act of 1920 (c. 91, 41 Stat. 456, 475; U. S. C. title 49, sec. 1)	6, 22
Section 1, paragraphs (10) and (11), as amended by section 402 of the transportation act of 1920 (c. 91, 41 Stat. 456, 476; U. S. C. title 49, sec. 1)	7, 23
Section 1, as amended by the act of May 29, 1917 (c. 23, 40 Stat. 101)	7
Section 13, as amended by section 11 of the commerce court act (c. 309, 36 Stat. 550; U. S. C. title 49, sec. 13) and by section 416 of the transportation act of 1920 (c. 91, 41 Stat. 484)	11

Interstate commerce act—Continued. Page
Section 15, paragraphs (1) and (3), as amended by section 418 of the transportation act of 1920 (c. 91, 41 Stat. 456, 484; U. S. C. title 49, sec. 15) ---------- 8, 9, 23
Section 15, paragraph (6), as amended by section 418 of the transportation act of 1920 (c. 91, 41 Stat. 456, 486; U. S. C. title 49, sec. 15) ---------- 10
Section 238, Judicial Code, as amended by the act of February 13, 1925 (c. 229, 43 Stat. 938) ---------- 2
Urgent deficiencies act (c. 32, 38 Stat. 219, 220) ---------- 2
United States Code:
Title 28, section 47 ---------- 2
Title 49, section 1, paragraphs (3), (4), (6), (10), and (11) - 4, 6, 7
Title 49, section 15, paragraphs (1), (3), and (6) ---------- 8, 9, 10

STATEMENTS OF REPRESENTATIVE MANN (ILLINOIS)

April 12, 1910 ---------- 60
May 5, 1910 ---------- 63

In the Supreme Court of the United States

OCTOBER TERM, 1927

No. 404

THE BALTIMORE & OHIO RAILROAD COMPANY AND twelve (12) other railroad companies, appellants

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE Commission, The Chicago, Rock Island & Pacific Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri Pacific Railroad Company, and St. Louis-San Francisco Railway Company, appellees

---

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

BRIEF FOR THE UNITED STATES

OPINIONS

The specially-constituted District Court (Circuit Judge Anderson and District Judges Wilkerson and Cliffe) filed no opinion.

The report of the Commission appears as *Chicago, Rock Island & Pacific* v. *Baltimore & Ohio,* 113 I. C. C. 681 (R. 15), July 12, 1926.

JURISDICTION

On December 8, 1926, the District Court entered its final decree dismissing the bill of complaint for want of equity. (R. 68.)

On February 5, 1927, the direct appeal to this Court was allowed. (R. 72.)

The suit was brought to set aside an order of the Interstate Commerce Commission and the jurisdiction of this Court on direct appeal rests on the Urgent Deficiencies Act of October 22, 1913 (c. 32, 38 Stat. 219, 220), and Section 238 of the Judicial Code as amended by the Act of February 13, 1925 (c. 229, 43 Stat. 938; U. S. C. Title 28, Sec. 47; R. 2).

QUESTION

In practically all of the leading terminal cities and switching and interchange districts of the United States [1] it is the common practice of railroad

[1] "The line that brings in the traffic assumes the duty of delivering it to its connections" and "that is the universal practice in the United States." (Stanage, R. 107.)

"The general practice is for the delivering line to pay the charge of the intermediate switching line. There are practically no exceptions." (Brief, R. V. Fletcher, Attorney, Peoria & Pekin Union Railway; Stanage, R. 105.)

STANAGE (R. 86): East Dubuque, Savanna, Ill. (R. 107); Clinton, Iowa (R. 108); Keithsburg, Ill. (R. 110); Burlington, Iowa (R. 110); Ft. Madison, Keokuk, Iowa (R. 110); Hamilton, Quincy, Ill., Hannibal, Mo. (R. 111); Memphis, Tenn. (R. 112); Vicksburg, Natchez, Miss., Helena, Ark. (R. 118, 119); Paducah, Evansville (R. 124); Jeffersonville, New Albany, Ind., Louisville, Ky. (R. 125); Cincinnati, Detroit (R. 127); Toledo (R. 129); Cleveland (R. 135); Columbus (R. 136); Indianapolis (R. 136); Ft. Wayne (R.

common carriers reciprocally to bear the burden or expense of transferring through traffic from one line to another, and the carrier which performs the inbound haul or delivering carrier switches or trucks the freight to its connection or pays the expense of that service if performed by a third party. The notable exception is at St. Louis, Missouri, and East St. Louis, Illinois, which are divided by the Mississippi River, and which constitute one of the largest railroad gateways in the World with vast surrounding railroad switching terminal and interchange facilities. The two cities are in the same rate group and the rates to and from each are the same.

The question is, Whether it is a reasonable practice and within the power of the Commission to or-

---

137); Springfield, Ill. (R. 137); East St. Louis (between Eastern lines where direct interchange exists the delivering line makes delivery at its expense) (R. 137); Chicago: "It is the universal custom in the Chicago district for the delivering line to assume the expense of effecting the delivery of its through traffic to its connections" (R. 156).

RAUSCH (R. 202): Kansas City, Mo. (R. 207); Kansas City, Kansas (R. 208); Omaha (R. 209).

HUTCHISON (R. 219): Kansas City (R. 220); Birmingham (R. 222); Tulsa, Okla., Sherman, Ft. Worth and Dallas, Tex. (R. 222).

FERTIG (R. 224): Des Moines (R. 230, 234); Minnesota Transfer (R. 230); Memphis (R. 231); Mississippi Warrior Service, Federal Barge Line (R. 231); Peoria (R. 232); Pekin (R. 232); Kansas City (R. 232); Cleveland (R. 233).

TROVILION (R. 237): Kansas City (R. 238); Oklahoma City, Dallas, San Antonio (R. 239).

NASH (R. 340): Indianapolis, Cincinnati (R. 362).

der that the East Side Lines [2] shall deliver through westbound traffic to the West Side Lines,[3] which moves on a combination of rates, i. e., certain rates to the East Side Lines up to the Mississippi, and certain rates to the West Side Lines beyond, in such a way that the East Side Lines or delivering carriers which perform the inbound haul shall pay and bear the charges of the Terminal Railroad Association which transfers the traffic from East St. Louis to St. Louis or to the terminals of the West Side Lines.

STATUTES

Section 1 of the Interstate Commerce Act as amended by Section 400, paragraphs (3) and (4), of the Transportation Act of 1920 (c. 91, 41 Stat. 456, 474, 475; U. S. C. Title 49, Section 1, paragraphs (3) and (4)), provides:

> (3) * * * The term "railroad" as used in this Act shall include all bridges,

[2] The Baltimore and Ohio Railroad Company; Chicago and Alton Railroad Company; Chicago and Eastern Illinois Railway Company; The Cleveland, Cincinnati, Chicago and St. Louis Railway Company; Illinois Traction (Inc.); Illinois Central Railroad Company; Litchfield and Madison Railway Company; Louisville and Nashville Railroad Company; Mobile and Ohio Railroad Company; The New York, Chicago and St. Louis Railroad Company; The Pennsylvania Railroad Company; Southern Railway Company; Wabash Railway Company.

[3] The Chicago, Rock Island & Pacific Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri Pacific Railroad Company; St. Louis-San Francisco Railway Company.

car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" as used in this Act shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. * * *

(4) It shall be the duty of every common carrier subject to this Act engaged in the transportation of passengers or property to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates, fares, and charges applicable thereto, and to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes, and providing for reasonable com-

91208—28——2

pensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof as between the carriers subject to this Act participating therein which shall not unduly prefer or prejudice any of such participating carriers.

Section 1 of the Interstate Commerce Act as amended by Section 400, paragraph (6), of the Transportation Act of 1920 (c. 91, 41 Stat. 456, 475; U. S. C. Title 49, Section 1, paragraph (6)) provides:

(6) It is hereby made the duty of all common carriers subject to the provisions of this Act to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this Act which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this Act upon just and reasonable terms, and

every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful.

Section 1 of the Interstate Commerce Act as amended by Section 402 of the Transportation Act of 1920[4] (c. 91, 41 Stat. 456, 476; U. S. C. Title 49, Section 1, paragraphs (10) and (11)), provides:

> (10) The term "car service" in this Act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this Act.
>
> (11) It shall be the duty of every carrier by railroad subject to this Act to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

---

[4] The above-quoted Car Service provisions enlarged the provisions of the earlier Car Service Act which was approved May 29, 1917 (c. 23, 40 Stat. 101), viz:

"The term 'car service' as used in this Act shall include the movement, distribution, exchange, interchange, and return of cars used in the transportation of property by any carrier subject to the provisions of this Act.

"It shall be the duty of every such carrier to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service, and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful."

Section 15[1] of the Interstate Commerce Act as amended by Section 418 of the Transportation Act of 1920 (c. 91, 41 Stat. 456, 484; U. S. C. Title 49, Section 15, paragraph (1)), provides:

> SEC. 15. (1) That whenever, after full hearing, upon a complaint made as provided in section 13 of this Act, or after full hearing under an order for investigation and hearing made by the Commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the Commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this Act for the transportation of persons or property or for the transmission of messages as defined in the first section of this Act, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this Act, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, the Commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or the rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maxi-

[1] Appendix C consists of explanatory statements of Representative Mann when the act of 1910 was under consideration.

mum and minimum, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

* * * * *

(3) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property, or the maxima or minima, or maxima and minima, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto, and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under

> which such through routes shall be operated; and this provision, except as herein otherwise provided, shall apply when one of the carriers is a water line. The Commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character; nor shall the Commission have the right to establish any route, classification, or practice, or any rate, fare, or charge when the transportation is wholly by water, and any transportation by water affected by this Act shall be subject to the laws and regulations applicable to transportation by water.

Section 15, paragraph (6), of the Interstate Commerce Act as amended by Section 418 of the Transportation Act of 1920 (c. 91, 41 Stat. 456, 486; U. S. C. Title 49, Section 15, paragraph (6)), provides:

> Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received

by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares, and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare, or charge.

Section 13 of the Interstate Commerce Act, as amended by Section 11 of the Commerce Court Act (c. 309, 36 Stat. 550; U. S. C. Title 49, Section 13)

and as further amended by Section 416 of the Transportation Act of 1920 (c. 91, 41 Stat. 484), now provides:

> (1) That any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this Act, in contravention of the provisions thereof, may apply to said commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the commission. * * *
>
> * * * * * *
>
> (3) Whenever in any investigation under the provisions of this Act, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed, there shall be brought in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. * * *

STATEMENT

East St. Louis is located on the east bank of the Mississippi at which come to an end the rails of the appellants or East Side Lines. St. Louis is located on the west bank at which come to an end the rails of the appellees or West Side Lines. Chicago, Burlington & Quincy Railroad and Wabash Railway serve both cities with their own rails and were cross-complainants before the Commission with the West Side Lines. The tracks of none cross the river at St. Louis (113 I. C. C. 682; R. 16.)

Intervening between the rails of the East Side Lines and the rails of the West Side Lines lie the rails of the Terminal Railroad Association which performs a terminal switching or interchange service (*United States* v. *Terminal Railroad Association*, 224 U. S. 383; 236 U. S. 194) by which traffic is transferred from one side of the river to the other (113 I. C. C. 682; R. 16). Fifteen of the principal East Side Lines and the West Side Lines own in equal proportions the capital stock of the Terminal Association of which East Side Lines hold the majority (113 I. C. C. 685; R. 20).

The contract between the carriers and the operation of the Terminal's facilities contemplate that all carriers shall have equitable treatment in the matter of service, rights, accommodations, benefits, burdens, expenses and charges (113 I. C. C. 685; R. 21). The Commission found that "under this contract the properties of the Association repre-

sent, in legal and practical effect, the extension of the East Side Lines into St. Louis and of the West Side Lines into East St. Louis" (113 I. C. C. 686; R. 21); also "several of the East Side Lines own or lease other facilities in St. Louis, such as depots and team tracks, where they receive and deliver in their own names traffic moving between St. Louis and points on their lines;" they also "advertise through service to and from St. Louis and in their tariffs show St. Louis as a point on their lines" (113 I. C. C. 686; R. 21); and "in apparently all respects as to both freight and passenger traffic the East Side Lines individually recognize St. Louis as a station on their lines" (113 I. C. C. 686; R. 21).

Under the per diem rules of the American Railway Association, the carrier performing the inbound haul shall pay the car-rental charges and the East Side Lines relieve the Terminal Association of those rental charges on equipment by allowing the Association's switching reclaims (113 I. C. C. 686; R. 22).

For years past the West Side Lines have borne the transfer charges of the Terminal Association on practically all eastbound (71% of the total, or $1,746,016.55) and all westbound (29% of the total, or $713,161.69) through traffic. They were willing to continue the present practice with respect to all eastbound traffic, but were not willing to do so with respect to any westbound traffic (113 I. C. C. 682;

R. 17), from which charges they sought to be relieved (113 I. C. C. 683; R. 17).

Much of the traffic moving through the St. Louis-East St. Louis gateway moves on *joint* rates, i. e., one rate from origin to destination regardless of the number of carriers participating in the haul;[5] as to all of that traffic the "divisional arrangements" among the carriers provide that the joint rates both eastbound and westbound shall "break" on East St. Louis; i. e., certain proportions shall accrue up to that point and certain proportions beyond (113 I. C. C. 683; R. 18); as the "divisional arrangements" make no specific provision regarding the payment or disposition of the transfer expense (113 I. C. C. 683; R. 18) and as the joint rates "break" on East St. Louis and the transfer takes place west of that point, the East Side Lines have always left the transfer expense to be borne by the West Side Lines on all eastbound and west-

[5] *St. Louis-Southwestern Railway* v. *United States*, 245 U. S. 136, footnote, 139:

"A 'through route' is an arrangement, express or implied, between connecting railroads for the continuous carriage of goods from the originating point on the line of one carrier to destination on the line of another. Through carriage implies a 'through rate.' This 'through rate' is not necessarily a 'joint rate.' It may be merely an aggregation of separate rates fixed independently by the several carriers forming the 'through route'; as where the 'through rate' is 'the sum of the locals' on the several connecting lines or is the sum of lower rates otherwise separately established by them for through transportation. *Through Routes and Trough Rates*, 12 I. C. C. 163, 166. Ordinarily 'through rates' lower than 'the sum of the locals' are 'joint rates.'"

bound through traffic (113 I. C. C. 683; R. 18). The practice of "breaking" the joint rates on East St. Louis rather than on St. Louis is said to have prevailed since 1877, when the Chicago & Alton extended its line from the west across the Mississippi River at Louisiana, Missouri, thence south to East St. Louis, which created a situation which the West Side Lines had to meet (113 I. C. C. 684; R. 19).

The balance of the traffic under consideration moves on combinations of locals, or locals and proportionals, to and from East St. Louis. Generally the local rates of both sets of carriers to and from East St. Louis are the same as those to and from St. Louis which makes the combination rates based on St. Louis the same as those based on East St. Louis (113 I. C. C. 684; R. 19). Where the combination is the same, on traffic in both directions the East Side Lines apply their St. Louis-East St. Louis rates only to or from East St. Louis, leaving the West Side Lines to protect the combination rates by applying the St. Louis-East St. Louis rates to or from East St. Louis which, of course, compels the West Side Lines to pay the cost of the transfer and leaves the East Side Lines with the full St. Louis-East St. Louis rates to or from East St. Louis (113 I. C. C. 684; R. 19). This entire practice is in accord with the tariffs of the East Side Lines, which provide that where no joint rates are provided and the combinations are the same on St. Louis as on

East St. Louis, through rates will be made on the East St. Louis combination* (113 I. C. C. 684; R. 19; see p. 35).

Obviously, the combination rates to and from St. Louis and East St. Louis overlap (113 I. C. C. 688; R. 24). St. Louis and East St. Louis, as to traffic moving to and from these points, are in one rate group (113 I. C. C. 689; R. 25).

The history of both the combination rates and the divisions of the joint rates applicable to this traffic indicates the transfer charge of the Association was given little or no consideration in the establishment of any of these rates or divisions. East Side Lines have taken advantage of the situation to require the West Side Lines to continue to pay the transfer charges on *all* traffic, eastbound and westbound, although St. Louis is shown as a point on the East Side Lines (113 I. C. C. 689; R. 25), and all of the traffic moves through St. Louis. East Side Lines are the connecting carriers whose lines, by virtue of the fact that St. Louis is shown as a point on their lines, extend to the respective points of interchange with West Side Lines in St. Louis, and, in the absence of any agreement to the contrary, responsibility for transporting this traffic rests with the East Side Lines until its delivery to West Side Lines in St. Louis (113 I. C. C. 689; R. 25).

---

*Westbound traffic from and to points in territory within about 100 miles of the St. Louis-East St. Louis district is embraced in this case, as it moves on a different rate adjustment.

The Commission found "that for the future the practice of the east-side lines in requiring the West Side Lines to bear the transfer charges on westbound freight traffic moving through St. Louis and East St. Louis on combination rates which are the same on St. Louis as on East St. Louis will be unjust and unreasonable, and that the just and reasonable practice with respect to such traffic will be for the east-side lines to bear or absorb all such transfer charges" (113 I. C. C. 690; R. 26).

SUMMARY OF ARGUMENT

I. The practice which requires the West Side Lines to bear the charges of the Terminal Association which transfers traffic across the river to the interchange tracks of the West Side Lines is contrary to the practice in practically all of the leading terminal cities and switching and interchange districts of the United States. The practice was condemned by Circuit Judges Sanborn, Carland, Stone and Lewis after full hearings; by the Commission after full hearing which issued the cease and desist order; and by the specially-constituted three-Judge District Court at Chicago which dismissed the bill. With this weight of authority there is little left for decision; as in *Terminal Railroad Association* v. *United States,* 266 U. S. 17, the Court fixed the jurisdiction of the Commission over the subject.

II. West Side Lines have been and are willing to bear the transfer charges on all eastbound traffic. The total transfer charges divided 71% or $1,746,-016.55 eastbound and 29% or $713,161.69 westbound. The order is restricted to traffic which moves on combination rates, which is not more than 15% of the 29%, or on which the transfer charges amount to about $106,000 a year; and accomplishes but a small portion of the relief prayed which was from the burden of the transfer charges on all westbound traffic.

III. Without dispute as to the determinative facts, *in limine* the Government and the appellants divide on the main questions involved for decision. The Government maintains the case concerns a practice and is controlled by the statutes and decisions relating to practices. The appellants maintain the case relates to divisions and is controlled by the statutes and decisions relating to divisions, and also that the West Side Lines were without statutory authority to bring the proceeding. Similarly, the same parties divide on the force and effect of the decision in *Terminal Association* v. *United States,* 266 U. S. 17. They maintain the instant case "has been indubitably stamped as a rate and divisions case" and the Government maintains that case held nothing of the kind.

IV. The antecedent history of *Terminal Association* v. *United States,* 266 U. S. 17, and the evidence

before and findings of the Commission all indicate the properties of the Association represent, in legal and practical effect, the extension of the East Side Lines into St. Louis and of the West Side Lines into East St. Louis; that the combination rates to and from St. Louis and East St. Louis overlap and the two points are in one and the same rate group.

V. There may be no blending of "divisions" and "practices." Each is specifically and separately treated in the statute and the Commission and the Court have also treated them in that way. The West Side Lines have their receiving rails on the west bank and the operating expense of the transfer to their interchanges is about as far removed from divisions as any operating expense would be which reduces net revenue, e. g., repairs, coal, car rentals, oil, etc.

VI. "Transportation includes delivery" and under every system of railroad operation and canon of rate-making the inbound or delivering carrier is under legal obligation to make delivery at its own cost to its connection at appropriate interchanges such as exist in this case.

ARGUMENT

I

THE CASE CONCERNS A PRACTICE AND THAT ONLY

There is little or no dispute of the determinative facts. There is an irreconcilable difference between

the appellants and this appellee on the main question involved for decision.

(A) They maintain the case does not relate to a practice because the word "practice" as used in the Act relates only to matters between shippers and carriers and not to questions affecting the handling of traffic between carriers (Br. 47); that the case is a "divisions" case and that only; and the Commission failed to give consideration to all of the facts and circumstances prescribed by the statute (c. 91, 41 Stat. 456, 486; *ante*, pp. 10, 11); therefore, they say the order is void as without evidence to support it, as in *Brimstone Railroad & Canal Co.* v. *United States* (No. 240, October Term, 1927, February 20, 1928); they also claim the statute was designed to regulate the practices of carriers against shippers and not the practices of carriers against carriers.

The Government maintains the case relates to a "practice" as that term is used in paragraphs (6) and (11) of Section 1, and paragraph (1) of Section 15; that in the use of that term the statute draws no limitation between shippers and carriers and that the West Side Lines had the right to file the complaint under Section 13 (36 Stat. 550; *United States* v. *New York Central*, 272 U. S. 457, 462; *Pennsylvania Railroad* v. *United States*, 236 U. S. 351.)

91208—28——4

If that argument is sound, it may not seriously be maintained that the order is void as without evidence to support it.

What is a practice? Lexicographers have approached a similarity in their definitions.[7] In *United States* v. *Pennsylvania Railroad,* 242 U. S. 208, 229, this Court, in referring to the word *practice* as it appeared in Section 15, said: "Following a well-known rule of construction we must rather suppose its association was intended to confine it to acts of conduct having the same purpose as its associates."

What are its associates? Section 1 (6): it is the duty of all common carriers "to establish, observe,

---

[7] *Bouvier:* "A succession of acts of a similar kind or in a like employment, Webst."

Black: "A succession of acts of a similar kind or in a like employment."

Century: "1. Action; exercise; performance; the process of accomplishing or carrying out; performance or execution as opposed to speculation or theory. * * * 3. Frequent or customary performance; habit; usage; custom."

Webster: "1. Action; performance; operation; also, an action; deed; proceeding."

Murray: "1. The action *of* doing something; performance, execution; working, operation; method of action or working. * * * 2. The habitual doing or carrying on *of* something; usual, customary, or constant action; action as distinguished from profession, theory, knowledge, etc.; conduct. * * * c. A habitual way or mode of acting; a habit, custom; (with *pl.*) something done constantly or usually; a habitual action."

and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or *practices* are or may be made or prescribed, and just and reasonable regulations and *practices* affecting classifications, rates, or tariffs, * * * the facilities for transportation, * * * and all other matters relating to or connected with the receiving, handling, *transporting,* storing, and delivery of property * * * which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property * * * upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and *practice* is prohibited and declared to be unlawful." Section 1 (11): "It shall be the duty of every carrier * * * to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and *practices* with respect to car service; and every unjust and unreasonable rule, regulation, and *practice* with respect to car service is prohibited and declared to be unlawful"; and car service (10) "shall include the use, control, supply, movement, distribution, exchange, *interchange,* and return of locomotives, cars, and other vehicles used in the transportation of property, * * * and the supply of trains, by any carrier" * * *. Section 15 (1): "That whenever, after full hearing, * * * the Commission shall be of opinion that

any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers * * * or that any individual or joint classification, regulation, or *practice* whatsoever of such carrier or carriers * * * is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, the Commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or the rates, fares, or charges, to be thereafter observed in such case, * * * and what individual or joint classification, regulation, or *practice* is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or *practice* so prescribed" (c. 91, 41 Stat. 456, 484; U. S. C. Title 49, Section 15, paragraph (1).

With this association of words how may it successfully be maintained that "practice" and "practices" do not comprehend within their meaning the precise situation here presented? In *United States* v. *Pennsylvania Railroad,* 242 U. S. 208, the carrier had flatly refused to furnish to shippers tank cars of a special type, and it was held that its refusal was not a "practice" within the meaning of these acts. The situation in that case so widely differs with the present situation that the suggestion of opposing counsel (Br. 48) that the Commission "ignored the meaning and effect of this decision" can not prevail.

(B) The complaint, without any use or mention whatever of the word *divisions,* alleged that the *practice* of requiring the complainants and other West Side Lines to assume the burden of delivering through eastbound traffic at points on the east side of the Mississippi, and to accept and receive all westbound through traffic at points on the east side of the Mississippi, and to pay and ultimately bear the transfer charges for all the through westbound and eastbound traffic through these gateways, is unjust, unreasonable, unduly preferential, unjustly discriminatory and unduly prejudicial, unlawful and illegal; that under a proper, just, reasonable, lawful, nonprejudicial and nonpreferential *practice,* the East Side Lines should assume the burden of and effect delivery of all through westbound traffic at St. Louis (R. 35), and should pay and

ultimately bear the transfer charges thereon; that under a proper, just, reasonable, lawful, nonprejudicial and nonpreferential *practice* the point of interchange as to all through westbound traffic should be on the west side of the Mississippi; that the East Side Lines have failed, neglected, and refused, and now fail, neglect, and refuse, to provide reasonable facilities for operating through routes and to make *reasonable rules and regulations* with respect to the operation of through routes (R. 36).

The complaint prayed for an order directing the East Side Lines to cease and desist from the aforesaid practices (R. 37), and that the East Side Lines be required to pay and bear the transfer charges on all westbound traffic through said gateways and to effect delivery thereof to the West Side Lines at St. Louis Switching District (R. 37), or on the west side of the Mississippi; and that the East Side Lines be required to provide reasonable facilities for operating through routes through St. Louis and to make reasonable rules and regulations therefor (R. 37).

The West Side Lines, therefore, complained of a *practice* and not of *divisions.* In answering the complaint, the East Side Lines set up "the sole question in this case is as to the lawful measure of the amounts received by the East Side Lines and the West Side Lines, respectively, for their services." (Br. 5.)

Opposing counsel concede (Br. 5) that at the hearing before the Commission the West Side Lines "insisted on confining the inquiry to the allegations of the complaint, which related to a matter of practice only" (Br. 5); and they quote from the brief of the West Side Lines in which their counsel say, "the question of the rates and divisions has nothing to do with a proper practice regarding the interchange of traffic," and "our complaint relates only to the matter of reasonable rules and regulations governing interchange between carriers at a terminal owned by all of them" (Br. 6).

The Commission stated "the question presented is whether it is a reasonable *practice* for the East Side Lines to deliver the traffic to the West Side Lines in such a way as to compel the West Side Lines to pay the transfer charge from East St. Louis" (113 I. C. C. 688: R. 24), and then ordered the East Side Lines to cease and desist from the practice of requiring the West Side Lines to bear the charges for transfer services from East St. Louis to St. Louis on westbound freight traffic passing through both points on combination rates which are the same on St. Louis as on East St. Louis (R. 29), and that the East Side Lines shall apply to the *transportation* the practice of bearing or absorbing such charges for such transfer service (R. 29).

(C) The only basis claimed for the "divisions" theory is that the expenditure for the transfer

charge results in less net revenue to the East Side Lines. But that is true of any operating expense. The case could not conceivably be considered as a "divisions" case because the combination rate is divided by the Mississippi—one rate to the East Side Lines and the other to the West Side Lines and St. Louis and East St. Louis are in the same rate district, i. e., the rate to and from each is the same. *Terminal Association* v. *United States,* 266 U. S. 17, 30. The receiving rails of the West Side Lines are on the west bank and the operating expense of the transfer over the River to the interchanges of the West Side Lines is as far removed from divisions as any operating expense which would reduce net revenue, such as repairing a locomotive, or acquiring coal supply, or renting cars, *et id genus omne.* As a general rule, apart from their transportation, railroads have little to sell from which to derive revenue and all operating expenses are paid from revenues derived from transportation. There may be no blending of "divisions" and "practices." "Divisions" as distinguished from "practices" are not only specifically separately treated in the statute but the Commission and this Court have repeatedly treated divisions as a subject to itself. *Tap Line Cases,* 234 U. S. 1; *O'Keefe, Receiver* v. *United States,* 240 U. S. 294; *Manufacturers Railway* v. *United States,* 246 U. S. 457; *New England Divisions,* 261

U. S. 184; *United States* v. *Abilene & Southern*, 265 U. S. 274; *Brimstone Railroad & Canal Company*, No. 240, October Term, 1927, February 20, 1928. "Practices" have similarly been treated separately. *United States* v. *Pennsylvania Railroad*, 242 U. S. 208, 229; *Louisville & Nashville* v. *United States*, 238 U. S. 1, 17; *Northern Pacific* v. *Solum*, 247 U. S. 477, 483; *Pennsylvania Railroad* v. *Puritan Coal Co.*, 237 U. S. 121, 131; *Pennsylvania Railroad* v. *Clark Coal Co.*, 238 U. S. 456, 468, 469; *Skinner & Eddy* v. *United States*, 249 U. S. 557, 562; *Postal Telegraph* v. *Western Union*, 59 I. C. C. 512.

(D) Opposing counsel argue "It was the plain and express purpose of the Commission in making the order it did to make an apportionment of the revenue on through westbound traffic as between the East and West Side Lines." (Br. 68.) In its report the Commission said, "In deciding upon what would be a reasonable practice, primary consideration should be given to what is a fair method of apportioning the revenue regardless of the competition of the Alton." (113 I. C. C. 689; R. 25.)

The statement is obviously not a finding of fact but an observation or conclusion of the Commission with respect to the relief which it failed to grant. The present case does not concern the apportionment of the revenue. The proceeding was not com-

menced, conducted, or determined on such a basis and could not have been, as it dealt with the operating expense of a practice or liability for a transfer charge. Moreover, it concerned the application of the rate which breaks on the Mississippi River. The Commission took no action with respect to the joint rates, and the statement should be considered only in connection with the relief which it denied, and not with that which it granted.

Of all traffic, 29% is westbound; and not more than 15% of the 29% moves on the combination rates, as against 85% of the 29% which moves on joint rates. Having reached its findings and order with respect to the traffic which moves on the combination rates under other sections of the statute, the Commission had the authority to lay to one side because of insufficient record the traffic which moves on joint rates for further consideration under paragraph (6) of Section 15 (ante, p. 11), which includes only "the divisions of *joint* rates, fares, and charges." All of the cases recently decided by this Court concerned the divisions of joint rates. *New England Divisions Case,* 261 U. S. 184, 187, which involved "the joint rates on which had just been increased pursuant to the order entered in *Ex parte 74"; United States* v. *Abilene & Southern,* 265 U. S. 274, 279, in which "the order relates to the divisions of interstate joint rates on traffic interchanged"; *Brimstone Railroad* v. *United*

States, No. 240, October Term, 1927, February 20, 1928, which involved the divisions the carrier might thereafter receive " from agreed joint rates."

II

THE ANTECEDENT HISTORY OF TERMINAL RAILROAD ASSOCIATION v. UNITED STATES, 266 U. S. 17

"The principal terminal facilities of the City of St. Louis are dominated by the Terminal Railroad Association, * * * a corporation whose capital stock is owned in equal shares by the 14 trunk lines entering that city. The Terminal, or its proprietary or tenant lines, owns or controls all bridges and ferries giving access to terminals within and lines directly entering St. Louis, so that no interstate shipment can enter or leave the city except over those lines." *Manufacturers Railway* v. *United States,* 246 U. S. 457, 462.

Since 1914 the West Side Lines have been paying the transfer charges of the Terminal Railroad Association on westbound traffic, notwithstanding the decision in *United States* v. *Terminal Railroad Association,* 224 U. S. 383, 398, in which this Court said, "If the Terminal Company was in law and fact the agent of all, the mere unification which has occurred would take on quite a different aspect. It becomes, therefore, of the utmost importance to know the character and purpose of the corporation which has combined all of the terminal instrumentalities upon which the commerce of a great city

and gateway between the East and West must depend."

Citing from the testimony of Mr. Albert L. Perkins, an experienced railroad engineer and manager, and the witness upon whom the defendants in that case chiefly relied to uphold the advantages of the unified system, this Court said (p. 405), "The witness, however, points out that such a terminal company should be the agent of every company, and furthermore, that its service should not be for profit or gain. In short, that every railroad using the service should be a joint owner and equally interested in the control and management."

That case concerned the agreement of October 1, 1889, in which the Terminal granted to each of the proprietary companies "a right of joint use with each other" of all said terminal properties of the Terminal then held or that may be thereafter acquired in St. Louis and East St. Louis, including the St. Louis bridge and tunnel for passenger and freight, express and mail business, and for interchange of the same between each other and with the public. Each proprietary company accepted the right of joint use granted by the Terminal and agreed that it would forever make use of the bridge and terminal properties of the Terminal for all passenger and freight traffic within its control through, to, and from St. Louis, and destined to cross the Mississippi River at St. Louis, and pay therefor as

therein provided. Three accounting departments were established, passenger, freight, and the bridge and tunnel. As to passenger traffic expenses and fixed charges were apportioned on a wheelage basis. The freight tolls covered the handling of freight billed to East St. Louis and turned over to the bridge for St. Louis delivery and all track deliveries; but should stations be established in St. Louis for local, and in East St. Louis for through, freight, to which stations the several lines bill direct, the expenses of such stations, including interest on the cost thereof, shall be paid by the roads using them on a tonnage basis. (*Terminal Railroad Association v. United States*, R. No. 115, pp. 155, 156, 158, Supreme Court, October Term, 1924, 266 U. S. 17.)

On January 16, 1903, an agreement supplementary to the agreement of October 1, 1889, was executed in which it was recited that the Terminal granted to each of the companies, and each of the companies accepted, "a right forever of joint use with each other and with such other companies as might be admitted, as proprietary lines, to joint use thereof of all terminal properties of the Terminal Association then held or that might thereafter be acquired in said St. Louis and East St. Louis, for passenger and freight, express and mail business, and for the interchange of the same between each other and with the public, the right granted to each proprietary company to remain as appurtenant to the railroad then owned by such proprietary com-

pany; and each of said proprietary companies, parties to said agreement, agreed forever to make use of the bridge and terminal properties of the Terminal Association for all passenger and freight traffic within its control through, to, and from St. Louis and destined to cross the Mississippi River at St. Louis." (*Terminal Railroad Association* v. *United States,* R. No. 115, p. 163, Supreme Court, October Term, 1924.) It is further recited that the agreement of 1903 provided that the rates of toll or charges should be fixed, so as to produce a sum sufficient each year to pay the fixed charges of the Terminal including certain specified items. (R. No. 115, *supra,* p. 163.)

On March 2, 1914, the United States District Court at St. Louis entered its supplementary modifying decree in which the foregoing provisions for "joint use" were eliminated from the agreement and in lieu thereof there were inserted the provisions that in case any other railroad company should thereafter desire to become a member of the Terminal Association it may become such "with equal rights of joint ownership and control of the combined terminal properties of said Association, upon such just and reasonable terms as shall place such applying company upon a plane of equality in respect of benefits and burdens of the parties hereto" (R. No. 115, *supra,* p. 105), and "Any other railroad company not electing to become a joint owner * * * but desiring the use of the terminal facili-

ties * * * may enjoy the use thereof upon such just and reasonable terms and regulations, as will in respect of use, character and cost of service, place it upon as nearly an equal plane as may be, with respect to expenses and charges, as that occupied by the proprietary companies" (R. No. 115, *supra*, p. 105).

In that decree there appears the following paragraph which was copied from the opinion of this Court (224 U. S. 412), and which was brought back in the opinion in 266 U. S. 25, viz:

> 6. Nothing in this decree shall be taken to affect in anywise or at any time the power of the Interstate Commerce Commission over the rates to be charged by the Terminal Railroad Association, or the mode of billing traffic passing over its lines, or the establishing of joint through rates or routes over its lines, or any other power conferred by law upon such commission. (R. No. 115, *supra*, p. 107.)

Contemporaneous with that decree there has appeared in the tariffs of the East Side Lines the following note, viz (R. 261):

> In the absence of through rates on traffic to points west of the Mississippi River, from points named herein, routed via St. Louis, Missouri, through rates will be made on the East St. Louis combination, except when the combination of rates filed with the Interstate Commerce Commission on St. Louis, Missouri, is lower, in which case the St. Louis, Missouri, combination rate will apply.

> This rule will not apply via the C. B. & Q. Nothing in this item is to prevent the application of an existing lower combination via the route of movement.

Citing pages 261–264 of the record, counsel for the appellants state that this note in substance was drawn by the Chief of the Bureau of Tariffs of the Interstate Commerce Commission and was published on short notice by permission of the Commission. (Br. 20.)

The record indicates that on November 23, 1916 (R. 262), the Secretary of the Commission called attention to complaint the Commission had received against the restriction upon the use of rates named from St. Louis to Central Freight Association Territory, in a letter to the Freight Traffic Manager of the Illinois Central Railroad, which was by the latter referred to the Chairman of the St. Louis Eastbound Freight Committee who reported the matter to the various members of the Committee. After a conference the latter committee appointed a subcommittee to confer with the Commission. The subcommittee reported that after a conference with the Chief of the Tariff Division and the Chief Examiner of the Commission in Washington the subcommittee was informed "that the Commission might be satisfied" (R. 263) with the cancellation of certain tariffs and the substitution of what appellants' counsel now claim is the substance of the present tariff. Chairman Hart (R. 263) of the subcommittee, in reporting back to the Eastbound

Freight Committee, stated, "I might add that this plan was approved *pending settlement of the controversy* between the eastern and western lines as to the observation of the bridge toll" (R. 264).

The West Side Lines were not represented at the conference between the representatives of the East Side Lines and the officials of the Commission. (R. 264.)

The record abounds with correspondence, protests, memoranda, etc., with what is known in railroad parlance as the "St. Louis Terminal difficulty" (R. 393–418), covering the spring and summer of 1908 and (R. 420–545) the summer and autumn of 1914, which relate to interchange of freight between the eastern and western roads at St. Louis (R. 454). When, therefore, counsel for appellants indicate that the note to the tariff was drawn by the Chief of the Bureau of Tariffs of the Commission and published on short notice by permission of the Commission in 1917 (Br. 20), it can hardly be said that the note, while bound to be respected as long as it remained in the tariff, had any prospect of escaping continued attack.

As early as 1905, the vice president and general traffic manager of Toledo, St. Louis & Western Railroad (a non-proprietary company), an East Side Line, favored "the receiving line absorbing the bridge charges on through traffic routed via the St. Louis gateway in either direction; as, for instance, any traffic that the Clover Leaf road delivers to your line (Rock Island), through the Ter-

minal Association, your line would absorb the bridge tolls as published, and, in a like manner, any traffic which your line delivers to the Clover Leaf, we would absorb the bridge charges. * * * This seems to me to be fair * * *. You understand that at the present time, the western roads absorb the bridge tolls in both directions; this by reason of their making their rates to and from St. Louis and East St. Louis the same." (R. 492, 493.)

III.

THE AUTHORITY OF THE COMMISSION WAS CONCLUSIVELY DETERMINED BY THIS COURT IN TERMINAL RAILROAD ASSOCIATION v. UNITED STATES, 266 U. S. 17.

Learned counsel for appellants (Br. 40) "very earnestly invite the Court's attention to the fact that the essential character of this controversy between the East Side and the West Side Lines has been indubitably stamped as a rate and division case by the court itself in a very recent decision" (266 U. S. 17).

As irreconcilable difference already exists between the appellants and this appellee on the question whether the case involves "practices" or "divisions," a similar difference now arises with respect to the force and effect of the decision of this Court in 266 U. S. 17. In that case the West Side Lines, as defendants in the case of *United States* v. *Terminal Railroad Association,* 224 U. S. 383, which was commenced under the Sherman Anti-trust Act, procured an order to show cause why the Terminal and the East Side Lines should

not be punished for contempt of the final decree of the District Court. In the recitals of the order to show cause it is stated, paragraph fourteenth, the proprietary companies (East Side Lines) "are not using and have not used the rails of the Terminal Railroad Association as extensions of their own railroads into and out of the City of St. Louis, and have not at any time and are not conducting its and their freight, passenger, mail and express business thereover as required by said decisions of the Supreme Court, the final decree of this Court, and the agreements which have been modified as therein required." (R. No. 115, p. 172.)

It was further charged that the East Side Lines "continue the illegal practice of billing to East St. Louis and then rebilling traffic destined to St. Louis and to points beyond, thus assessing all the transfer charges across the Mississippi River on through freight, moving both east and west, against the West Side Lines, and * * * have continued, ever since said decree, and still continue the same as before, to have all their tariffs break on the east side of the river at East St. Louis on all traffic moving through the St. Louis gateway, thus continuing in effect, instead of abolishing, the said existing illegal practice of billing to East St. Louis or other junction points, and then rebilling the traffic destined to St. Louis or points beyond, in violation of the terms and conditions of said final decree." (R. No. 115, p. 173.)

Without exception, the respondents, Terminal Association and East Side Lines, set up in their defenses to the order that the subject matter was within the complete jurisdiction and control of the Interstate Commerce Commission under the terms and provisions of the Interstate Commerce Act.

Circuit Judges Sanborn, Carland and Stone, on August 21, 1922 (R. No. 115, p. 494), filed an opinion directing that a supplemental decree should be entered "requiring the East Side Lines to pay the reasonable transfer charges of the Terminal on westbound through freight, to the rails of the West Side Lines" (R. No. 115, p. 498).

Subsequently, Circuit Judge Carland having died, Circuit Judge Lewis was called into the case. (R. No. 115, p. 501.) The final decree (R. No. 115, p. 511) adjudged that the East Side Lines "have not paid and are not now paying the reasonable transfer charges" of the Terminal "on westbound through freight to the rails" of the West Side Lines. It was further adjudged that the Terminal was not acting in good faith as the impartial agents of the various proprietary lines.

Appendix B hereto consists of extracts from the briefs of the Terminal and East Side Lines in which they point out that the sections and paragraphs of the statute on which the Government is now relying relate solely to matters within the exclusive jurisdiction of the Interstate Commerce Commission.

Specific reference is made by them in those briefs to Section 1, paragraphs (10) and (11), which re-

lates to car service, interchange of cars, transportation of property, and the duty of every carrier to establish, observe, and enforce just and reasonable rules, regulations, and *practices* with respect to car service. (Appendix B, p. 54.) And again they said, "If the West Side Lines are not satisfied with the present method and practice under which the terminal charges are imposed, then their remedy lies before the Interstate Commerce Commission and can not be invoked as growing out of the violation of any Court decree." (Appendix B, p. 58.)

The case in 266 U. S. 17 was not conducted as a "divisions" case. Responsibility for transfer charges was the question that was decided by the District Court; the decree refers to transfer charges. Who shall be responsible for the transfer charges was likewise the question presented to but never decided by this Court.

In *Terminal Railroad Association* v. *United States,* 266 U. S. 17, this Court said (p. 27): "The controversy is between them and the East Side Lines as to whether the former or the latter shall bear *transfer charges* on westbound through freight"; and again (p. 30): "The suit was brought by the United States to prevent restraint of trade and monopoly in violation of the Sherman Anti-trust Act. It did not relate to the *transfer charges* or division of joint rates"; and again (p. 31): "The original decree does not purport to regulate rates or prescribe divisions of joint rates, *or fix liability for such transfer charges.* On the other hand, it

expressly provides that it shall not affect in anywise or at any time the power of the Commission over charges to be made by the Terminal Association or its subsidiaries, or any power conferred by law upon the Commission." And finally (p. 31): "As the original decree does not prescribe *charges* or fix divisions of joint rates, contempt proceedings will not lie to determine whether the west side lines have paid more than *their fair share of the charges for the services* rendered by the Terminal Association, or to require the east side lines *to make the payments specified in the decree appealed from.* The refusal or failure of the east side lines *to pay the charges in controversy or any other transfer charges* is not contempt of court." (Italics ours.)

Clearly, therefore, this Court did not hold that the controversy relates to *divisions of joint rates* within the meaning of the so-called divisions paragraph (Section 15 (6)) as the appellants now contend. This Court merely protected the jurisdiction of the Interstate Commerce Commission against invasion by the courts and that was all that it did. That branch of the instant case which was left undetermined by the Commission relates to the application of joint rates; so that in the use of the words "practices" and "divisions," this Court included both branches of a case which it held the Commission alone had the authority to consider in the first instance.

This Court never held that the opinion and decree of the District Court were erroneous on the

merits, but only said that Courts would keep their hands off the situation as it then existed and until after the determination of the controversy by the Commission. Thus (p. 30):

> The Interstate Commerce Commission is authorized to establish through routes and joint rates *and to prescribe conditions upon which such routes shall be operated*, and to fix divisions of such rates among carriers. Sec. 15 (1), (3), (6), Interstate Commerce Act, sec. 418, c. 91, 41 Stat. 485, 486.

The West Side Lines in filing the complaint did precisely what this Court told them to do and now they are here with the case which the Circuit Judges of the District Court decided in their favor with the added weight of a full hearing and report and order of the Interstate Commerce Commission and the unanimous decree of the specially-constituted three-judge District Court.

IV

THE EVIDENCE TO SUSTAIN THE ORDER IS COMPLETE

The weakness of the case in 266 U. S. 17 was jurisdiction. The merits of the case were there in full panoply. The case is here in almost the same facts that appeared there. It was not a coincidence that the Interstate Commerce Commission, the body appointed by law and informed by experience, should have reached the same conclusion as the Circuit Judges in the Antitrust Case; or that the three Judges in the specially-constituted District

Court should have reached the same conclusion as the Circuit Judges and the members of the Interstate Commerce Commission. This unanimity all along the line demonstrates the meritorious case of the West Side Lines. Evidence is abundant and a few specific illustrations will suffice.

The total traffic represented by 100% is divided 71% or $1,746,016.55 eastbound and 29% or $713,-161.69 westbound. The West Side Lines pay the Terminal's transfer charges on all eastbound traffic. In the instant case the order of the Commission is limited to westbound traffic which moves on combination rates only, which is not more than 15 per cent of the total of the westbound traffic. It would seem not unreasonable that the West Side Lines should be relieved of the burden of *all* transfer charges for *all* westbound traffic, but they did not succeed to that extent. The East Side Lines, therefore, should not complain when West Side Lines have gained so little in their endeavors to be relieved of an unjust discrimination and burden.

As already pointed out (*ante,* p. 2), the practice at St. Louis is contrary to the practice in practically all of the leading terminal cities and switching and interchange districts of the United States which, under the decisions of this Court, is sufficient to affirm the validity of the order of the Commission in this case.

In *Los Angeles Switching Case,* 234 U. S. 294, the Commission had found that spur tracks and side

tracks of the carriers were a part of their terminal facilities; that deliveries thereon were the same, in cost and character, as the deliveries on the public-team tracks; that the line-haul rates for all other shippers embraced, without additional charge, deliveries on the terminals; and that out of 10,000 cities in the United States where terminal services were performed, only in the cities of San Francisco, Los Angeles and San Diego was the spur-track charge imposed. The Commission found discrimination and entered the order to cease and desist.

The carriers filed the bill to enjoin. The Commerce Court issued the preliminary injunction (188 Fed. Rep. 229, 929), and from that injunction order an appeal was taken to this Court. In reversing the decree and dismissing the bill this Court said (234 U. S. 307):

> The Commission found that these spur tracks were portions of the terminal facilities of the carriers with whose lines they connected, being distinguished from mere plant facilities such as were under consideration in *Chicago & Alton Ry. Co.* v. *United States,* 156 Fed. Rep. 558, and in the cases of the *General Electric Company* and *Solvay Process Company,* 14 I. C. C. 237, 246. Each of the spurs here considered, said the Commission, is in a real sense a railroad terminal at which the carrier receives and delivers freight. It further appears from the report

that the charge for spur-track delivery has been made by all of the carriers at Los Angeles as long as the railroads have had access to that city; that it was first imposed by the Southern Pacific and as the other lines came in they adopted the policy of the line already there; that as to certain commodities the charge was not imposed until quite recently and at all times until the Hepburn Act went into effect there was great variation in charge as between individual shippers. It is added that there are 97 places in California to which what are known as coast terminal rates apply, rates lower than to intermediate points; only in Los Angeles, San Francisco and San Diego is there such a charge for spur-track delivery, though in many of these places such delivery is furnished. To the north, in Portland, Seattle, Tacoma, and a large number of other points which also enjoy coast terminal rates, the Southern Pacific, Northern Pacific and Great Northern lines, impose no such charge, and to the east where defendants' lines have their termini in cities competing with Los Angeles, this charge is also unknown.

To the already overwhelmingly persuasive volume of the judicial decrees and the findings and order of the Commission on this subject there may be added the practice of the entire commercial, shipping and transportation world.

"Transportation includes delivery" is the foundation of a thoroughly considered and prepared

opinion of Judge Cardozo of the Court of Appeals of the State of New York in the case of *New York Central* v. *General Electric Company,* 219 N. Y. 227, in which he said, "But whatever is essential in order to complete delivery, the carrier must do. That is what it is paid for when it collects its regular rates * * * (p. 234). The limits of place within which delivery is due, will vary with varying conditions. * * * All that we can safely say is that there must be such a delivery as is customary and reasonable (p. 235). * * * We come back then to the test, which, vague as it is, remains the only safe one, and we ask ourselves whether, in the light of all the circumstances, such a form of delivery is customary or reasonable. That it is not customary is established, we think, by uncontroverted evidence * * * (p. 236). The defendant's standard of delivery does not conform, therefore, to the standard or custom (p. 237). We think it fails also when we test it by the standard of reason. A railroad's duty to carry is a duty to carry over its right of way. * * * Industrial spurs, within the switching limits designated by the carrier, are to be regarded, indeed, for many purposes, as an extension of the terminal (*Los Angeles Switching Case,* 234 U. S. 294)." See also *Texas & Pacific Railway* v. *Reiss,* 183 U. S. 621; *Myrick* v. *Michigan Central,* 107 U. S. 102.

If switches, spurs and sidings, as held in the foregoing cases, constitute terminals on which delivery

shall be made, what may be said of the vast properties of the Terminal Railroad Association of St. Louis as terminals upon which deliveries shall be made to the West Side Lines?

The following cases cited by counsel for the appellants are not controlling or even persuasive.

Pennsylvania Paraffine Works v. *Pennsylvania Railroad,* 34 I. C. C. 179, in which the Commission ordered the carrier to furnish necessary equipment, both ordinary and special, upon reasonable request. The order was annulled in *United States* v. *Pennsylvania Railroad Company,* 242 U. S. 208. *Warnock* v. *Chicago & North Western Railway,* 21 I. C. C. 546, appears to be an outgrowth of the case of *Interstate Commerce Commission* v. *Chicago, Rock Island & Pacific,* 218 U. S. 88, and relates to a readjustment of rates between the Missouri and Mississippi rivers. *In re Bills of Lading,* 52 I. C. C. 671, 696, which discusses the arrival of goods and notice to the consignee. *Borden's Farm Products* v. *New York, New Haven & Hartford,* 92 I. C. C. 270, failure or refusal of carriers to perform icing service on dairy products while exacting rates including such service found to constitute an unreasonable and unlawful practice; affirmed on further argument, 102 I. C. C. 497. *Los Angeles Passenger Terminal Cases,* 100 I. C. C. 421, relate to certificate of public convenience and necessity to permit the abandonment of the operation of certain passenger and freight train service,

except industrial freight-switch service, on the main line of the Southern Pacific in Los Angeles, and other like subjects. *Consolidated Lumber Co.* v. *Director General,* 101 I. C. C. 284, dismissed a complaint which assailed certain California lumber rates and does not appear to relate to a practice. *Somerville Iron Works* v. *Central Railroad,* 101 I. C. C. 683, sustained the existing rates on cast-iron pipe and apparently has nothing whatever to do with any practice. *Peoria & Pekin Union Railway Rates, Regulations and Practices,* 115 I. C. C. 469, appears to have established joint rates between trunk lines and the Peoria and Pekin Union and prescribed just, reasonable and equitable divisions thereof; as the report was issued July 12, 1926, the order entered pursuant thereto is apparently satisfactory to the parties.

CONCLUSION

On November 29, 1905, the original petition was filed in the District Court under the Sherman Anti-trust Act and during the more than 22 years that the controversy has waged this Court has heard and determined four appeals and one original suit by the United States, *United States* v. *Terminal Railroad Association,* 215 U. S. 595; 224 U. S. 383; 236 U. S. 194; *Ex parte United States,* 226 U. S. 420; *Terminal Railroad Association* v. *United States,* 266 U. S. 17. The end of one case appears to have been but the beginning of another. This Court has already issued five mandates and the end

is not yet. For length of years, number of appeals and mandates the controversy is without a parallel in the annals of the Court.

The order of the Commission was within its power, the final decree of the District Court dismissing the bill of complaint for want of equity was right and should be affirmed.

WILLIAM D. MITCHELL,
Solicitor General.

BLACKBURN ESTERLINE,
Assistant to the Solicitor General.

MARCH, 1928.

APPENDIX A

(R. 27, 28)

Order of the Commission entered July 12, 1926

No. 16697

The Chicago, Rock Island & Pacific Railway Company, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company, and St. Louis-San Francisco Railway Company

v.

The Baltimore and Ohio Railroad Company and numerous other railroad companies including the appellants

This case being at issue, upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission having, on the date hereof, made and filed report containing its finding of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before October 12, 1926, and thereafter to abstain from the practice of requiring the above-named complainants, together with the

Chicago, Burlington & Quincy Railroad Company and the Wabash Railway Company, to bear the charges for transfer services from East St. Louis, Ill., to St. Louis, Mo., on westbound freight traffic passing through both points on combination rates which are the same on St. Louis as on East St. Louis.

It is further ordered, That said defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish, on or before October 12, 1926, upon notice to this commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the interstate commerce act, and thereafter to maintain and apply to the transportation of westbound freight traffic passing through both East St. Louis, Ill., and St. Louis, Mo., on combination rates which are the same on St. Louis as on East St. Louis, and delivered to complainants, or the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company, the practice of bearing or absorbing on such traffic the charges for transfer services from defendants' lines in East St. Louis, Ill., to the lines of complainants, or of the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company in St. Louis, Mo.

And it is further ordered, That this order shall continue in force until the further order of the commission.

APPENDIX B

In *Terminal Railroad Association* v. *United States,* 266 U. S. 17, the East Side Lines, who were represented by at least one of the learned counsel who appears for them here and who subscribed to their briefs in both cases, said in their main brief in that case (p. 27):

WHAT ARE THE POWERS OF THE INTERSTATE COMMERCE COMMISSION IN REFERENCE TO THE MATTER HERE IN CONTROVERSY?

It would be tedious and altogether unnecessary to cite the many cases determined by this Court, holding that where a matter is within the cognizance of the Interstate Commerce Commission no appeal can be made to the Courts until and unless application has been first made to the Commission. *Texas & Pacific Railroad Co.* v. *Abilene Cotton Oil Co.,* 204 U. S. 426, is of course the leading case on that subject, and it has been followed by many decisions such as *Robinson* v. *B. & O. R. R. Co.,* 222 U. S. 506; *I. C. C.* v. *I. C. R. R. Co.,* 215 U. S. 452; *B. & O. R. R. Co.* v. *Pitcairn Coal Co.,* 215 U. S. 408; *Procter & Gamble* v. *United States,* 225 U S. 282; *Southern Railway Co.* v. *Reid,* 222 U. S. 425.

The Interstate Commerce Act has given from time to time broad and still broader powers over the railroad system. We mention the following as examples of this control:

Section 1, Par. 4, makes it the duty of every common carrier to establish through routes and

just and reasonable rates, fares, and charges applicable thereto, and to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof as between the carriers participating therein.

The term "car service" is by Section 1, Par. 10, defined to be, among other things, the interchange of cars and other vehicles used in the transportation of property.

And by Section 1, Par. 11, it is made the duty of every carrier to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect of car service.

By Section 3, Par. 3, it is provided that all carriers engaged in the transportation of passengers or property shall afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for receiving, forwarding, and delivering passengers or property to and from their several lines and those connecting therewith.

By Section 15, Par. 3, it is provided that the Commission may establish through routes, joint classifications and joint rates, fares, or charges, and the divisions of such rates, fares, or charges, and the terms and conditions under which such through routes shall be operated.

By section 15, Par. 6, it is provided that the Commission finding that the divisions of joint rates, fares, or charges is unjust, unreasonable, inequitable, or unduly preferential may, by order, pre-

scribe the just, reasonable, and equitable divisions thereof to be received by the several carriers.

By section 208 of the Transportation Act, 1920, it is provided that all rates, fares, and charges, and all classifications, regulations, and practices, which on February 29, 1920, were in effect, should continue in force and effect until thereafter changed by State or Federal authority, respectively, or pursuant to authority of law.

And by Par. (b) of said Section 208 it was provided that all divisions of joint rates, fares, or charges, which on February 29, 1920, are in effect between the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by mutual agreement between the interested carriers or by State or Federal authorities, respectively.

What are the powers of the Interstate Commerce Commission in reference to the matter here in controversy and what was the purpose of passing the Transportation Act is stated concisely in the opinion of this Court, delivered January 7, 1924, in the case of *Dayton-Goose Creek Ry. Co.* v. *The United States.* We make the following extract:

> The new Act seeks affirmatively to build up a system of railways prepared to handle promptly all the interstate traffic of the country. It aims to give the owners of the railways an opportunity to earn enough to maintain their properties and equipment in such a state of efficiency that they can carry well this burden. To achieve this great purpose, it puts the railroad systems of the country more completely than ever under the fostering guardianship and control of the Commission which is to supervise their issue of securities, their car supply and dis-

tribution, their joint use of terminals, their construction of new lines, their abandonment of old lines, and by a proper division of joint rates, and by fixing adequate rates for interstate commerce, and in case of discrimination, for intrastate commerce, to secure a fair return upon the properties of the carriers engaged.

A very large part of these powers had been conferred on the Interstate Commerce Commission prior to the passage of the Transportation Act and the amendments at that time made in the Interstate Commerce Act. But if we appeal to the law as it was written before or since the passage of the Act, practically the same result would be reached. We have had no hesitancy, however, in reciting the terms of the present law, for the reason that in matters of public concern, decrees of Courts and their execution are to be governed by laws in force when the decree is called in question.

Hodges v. *Snyder*, 261 U. S. 600, and the *Wheeling Bridge case* therein referred to.

Thus while the Commission has had jurisdiction to prescribe divisions of joint rates since 1906 (34 Stat. L. 584, approved June 29, 1906), the scope of that power has been extended and emphasized by the Transportation Act, 1920 (41 Stat. L. 484, approved February 28, 1920). The Commission, under the direction of Congress in this latter act, has divided the carriers of the United States into groups for rate-making purposes. (Section 15a, Interstate Commerce Act, 41 Stat. L. 488, approved February 28, 1920.) The Mississippi River was made the dividing line between the Eastern, Western and Southern groups. (Increased Rates, 1920,

58 I. C. C. 220, at 225.) In the same proceeding the Commission also prescribed rate levels for groups thus created. In prescribing rate levels for groups it is an important adjunct of the Commission's authority for it to apportion revenue resulting from joint rates among groups of carriers so as to provide "as nearly as may be" a fair return for each group. *The New England Divisions Case,* 261 U. S. 184. In the present case the West Side Lines are in the rate group denominated by the Commission in *Increased Rates, 1920, supra,* as the Western group, while the East Side Lines are, generally speaking, either in the Eastern or Southern Group. Consequently the apportionment of divisions of joint rates as between carriers and the decision as to which set of carriers should pay for transfer charges on traffic moving from one rate group to another, has more than ever become a matter of administrative discretion for the Interstate Commerce Commission, which is directed by Congress to prescribe rates that shall yield for each group the "fair return" provided by the Act. (Section 15a, Interstate Commerce Act.)

Obviously such a fair return can not be determined without also exercising an authority in respect to the division of earnings under joint rates and the apportionment of expense that shall be made in respect to traffic moving between the groups established by the Commission. Hence, while the division of joint rates has for eighteen years been a matter within the exclusive primary jurisdiction of the Commission, the new law has emphasized the necessity for guarding the jurisdiction thus conferred by Congress as exclusive at least until after the Commission shall have acted.

In their reply brief the same learned counsel further maintained (p. 25):

THE ACTIVITIES OF TERMINAL ASSOCIATION ARE SUBJECT TO THE EXCLUSIVE CONTROL OF THE INTERSTATE COMMERCE COMMISSION UNDER THE TRANSPORTATION ACT OF 1920

The appellees argue that the Transportation Act of 1920 does not apply to the regulation and control of the Terminal Association, since they say that they and the East Side Lines have agreed upon the use of the terminal properties, and the appellees seem to contend that the Interstate Commerce Commission would only have jurisdiction over this terminal situation in the event of a disagreement. (Brief for appellees, p. 22.)

In the light of the controversy that is now raging both over the use of the terminal properties as well as the payment for such use, we are utterly at a loss to understand how the appellees conceive that no such disagreement exists at present between themselves and the East Side Lines.

The Terminal Association insisted in its brief, and again reiterates, that the Transportation Act of 1920 vested exclusive jurisdiction in the Interstate Commerce Commission to control the relations between these Terminal Companies and all the user lines, whether Proprietary or Nonproprietary, and that if the West Side Lines are not satisfied with the present method and practice under which the terminal charges are imposed, then their remedy lies before the Interstate Commerce Commission and can not be invoked as growing out of the violation of any Court decree.

We further contended, and still contend, that this Court has no jurisdiction to disturb rate conditions which have existed here since 1877, and the destruc-

tion of which would not profoundly disturb the revenues of other eastern carriers at this gateway not parties to these proceedings, but would affect the rate structures now in effect at other crossings of the Mississippi River.

It seems to us too clear for much argument that this action is but an effort on the part of the West Side Lines to obtain by indirection and through an order of Court a change in a matter which is originally and exclusively within the power and authority of the Interstate Commerce Commission.

It is difficult to understand why the West Side Lines, if they feel themselves unfairly treated, have not taken this controversy to the Interstate Commerce Commission, where their right to relief is perfectly clear, provided their cause be just.

Representative Mann (Illinois) on April 12, 1910, moved that the House resolve itself into the Committee of the Whole House for the consideration of the bill H. R. 17536, the railroad-rate bill. (Cong. Rec. Vol. 45, Pt. 5, 61st Cong., 2d Sess., p. 4571.) Speaking to the bill, Representative Mann said (pp. 4572, 4573, 4578, 4579):

> Broadly speaking, the propositions involved in the pending bill may mostly be covered under three general heads:
>
> * * * * *
>
> Second. Enlarging the statutory duties of the railways and the rights of shippers and increasing the powers of the Interstate Commerce Commission; so that classifications, regulations, and practices shall be just and reasonable and enforceable as such, whether affecting the rates charged or not.
>
> * * * * *
>
> Mr. MANN. We have conferred upon the Interstate Commerce Commission the broadest kind of powers now so far as railway rates are concerned, and we are proposing in this bill to greatly enlarge their power by giving them the same power over classifications, regulations, and practices which they now have over rates. That power is in the way of a legislative power which can not be conferred upon the courts, and we

have, so far as that is concerned, I think, in the law restricted the power of the courts just as far as it is possible for legislation to restrict it. And I sometimes think possibly we have restricted it too much, and yet there has been no injury from that cause as yet.

* * * * *

REGULATIONS AND PRACTICES

Just how far that term goes—regulations and practices affecting rates—has never been fully determined by the courts. The Interstate Commerce Commission exercises the power over the rates. They have never exercised the power over classification of freight, although classification of freight is just as important as rates, because by moving a particular article from one class to another you affect the rates. They have never exercised the power over certain practices of the railroads or regulations of the railroads which may seem apart from the question of rates. The practice of the law is that Congress first declares the duty of the railroad companies and, under existing law, declares that rates must be just and reasonable. The rest is conferring power upon the commission to ascertain the fact; but the jurisdiction of the commission depends, first, upon the declaration by Congress that it is the duty of the railroads to make rates just and reasonable.

That is contained in section 1 of the existing law, and we propose an amendment to that law, as follows:

And it is hereby made the duty of all common carriers subject to the provisions of this act to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this act which may be necessary or convenient to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this act upon just and reasonable terms, and every unjust and unreasonable classifications, regulation, and practice is prohibited and declared to be unlawful.

This is a distinct step forward in the control of the railroads. It undertakes to require, when carried out in the rest of the bill, the duty on the part of the railroads to

make just and reasonable regulations and practices, and gives to the commission in succeeding sections of the bill the power, if the railroads do not make just and reasonable classifications, regulations, and practices, to make them and to enforce them on the railroads.

* * * * *

We cover part of them under existing law, but there are a great many provisions, as the gentleman can understand, arising from the countless transactions throughout the United States where regulations and practices are agreed to by railroads, where they have one practice on one railroad and another practice on another road, practices affecting the same matter not now controlled by the commission, but under these provisions of the law the commission will have control over these matters.

Representative Mann (Illinois), on May 5, 1910, moved that the House resolve itself into the Committee of the Whole House for further consideration of the bill H. R. 17546, the railroad rate bill. (Cong. Rec. Vol. 45, Pt. 6, 61st Cong. 2d Sess., p. 5839.) In the course of the remarks the following occurred (p. 5852):

Mr. MANN. Mr. Chairman, so far as I could learn from the reading of the amendment, everything in it is now covered in the bill. It would be too dangerous to reinsert it a second time in different language. Section 6a of the bill, amending section 1, makes

it the duty of common carriers to establish just classifications, regulations, and practices in reference to a number of things that are enumerated in the bill, and practically covering everything in connection with the receipt, handling, transporting, storage, and delivery of property subject to the provisions of the act which may be necessary or convenient to secure the safe and prompt receipt, handling, transportation, and delivery of property upon just and reasonable terms; and every unjust and unreasonable classification and practice is prohibited and declared to be unlawful. That is all in section 1. It imposes that duty on railway carriers, and section 13 of the act provides that if this is not done complaint can be filed before the commission, or the commission, on its own initiative, may make the investigation. Section 15 of the act to regulate commerce, which is section 9 of this bill now under consideration, gives to the commission, if the railway company does not establish these just and reasonable regulations, practices, classifications, and rates, the power to establish them, and require the railway company to enforce and observe them.

That language is carefully worked out in connection with the existing law so as to be sure it is constitutional. I do not know what the effect of the gentleman's amendment would be, but it would duplicate language, possibly, in a form which would not meet the approval of the courts. In the language

which we have employed we have followed the provisions as to form of the existing law, which has been construed by the commission and the courts. We are on safe ground. We give to the commission under this bill the authority to enforce upon the railroad companies any reasonable regulations and practices, classifications, or rates which may be necessary in the handling, receiving, storage, or transportation of property, and nothing further can be done. The gentleman's amendment is unnecessary, and I fear it would be dangerous to insert it in the bill.

○

Office Supreme Court
FILED
MAR 5
CHARLES ELMORE

No. 404

In the Supreme Court of the United States

OCTOBER TERM, 1927

THE BALTIMORE AND OHIO RAILROAD COMPANY ET AL., APPELLANTS

v.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION ET AL., APPELLEES

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

BRIEF FOR INTERSTATE COMMERCE COMMISSION

J. STANLEY PAYNE,
For Interstate Commerce Commission.

P. J. FARRELL,
Of Counsel.

MARCH, 1928.

U. S. GOVERNMENT PRINTING OFFICE: 1928

CONTENTS

	Page
STATEMENT OF THE CASE	1
Proceedings Before the Commission	2
The Evidence	12
Proceedings in the Court Below	29
Appellants' Contentions	29
ARGUMENT	29
SUMMARY	29
I. The Order Is Within the Power Conferred Upon the Commission	30
II. The Order Is Supported By Substantial Evidence	49
CONCLUSION	54

CASES CITED

Alabama & Vicksburg Ry. Co. v. *Jackson & Eastern Ry. Co.*, 271 U. S. 244 — 44, 45

Birmingham Sou. R. R. Co. v. *Ala. Great Sou. Ry.*, 61 I. C. C. 551 — 21

Brimstone R. R. & Canal Co. v. *United States*, —U. S.—, not yet officially reported, decided Feb. 20, 1928 — 52

C. F. A. Class Scale Case, 45 I. C. C. 254 — 28

Central R. R. Co. v. *United States*, 257 U. S. 247 — 44, 47, 50

Chicago, Indpls. & Louisv. Ry. Co. v. *United States*, 270 U. S. 287 — 43, 45

Chicago, Mil. & St. P. Ry. Co. v. *Un. Pac. R. R. Co.*, 88 I. C. C. 312 — 44

Fifteen Per Cent Case, 45 I. C. C. 303 — 28

Industrial Railways Case, 29 I. C. C. 212 — 21

Louisville & Nashville R. R. v. *United States*, 238 U. S. 1 — 45

Missouri Pac. R. R. Co. v. *Reynolds-Davis Grocery Co.*, 268 U. S. 366 — 21, 47

Myrick v. *Michigan Central R. R. Co.*, 107 U. S. 102 — 47

New England Divisions Case, 261 U. S. 184 — 52

Peoria & Pekin Union Ry. Co. v. *United States*, 263 U. S. 528 — 45

Penna. Co. v. *United States*, 236 U. S. 351 — 43, 45

Railroad Commission of Calif. v. *Sou. Pac. Co.*, 264 U. S. 331 — 44

Routing on Coal from Western Maryland Mines, 66 I. C. C. 103; 74 I. C. C. 127 — 44

Page

St. Louis S. W. Ry. Co. v. *United States*, 245 U. S. 136---- 44, 50
Sou. Pac. Co. v. *I. C. C.*, 200 U. S. 536---- 43
Terminal R. R. Assn. v. *United States*, 266 U. S. 17---- 16, 29, 30, 48
United States v. *Abilene & Sou. Ry. Co.*, 265 U. S. 274---- 52
United States v. *Amer. Ry. Exp. Co.*, 265 U. S. 425---- 44
United States v. *Mich. Port. Cement Co.*, 270 U. S. 521---- 45
United States v. *N. Y. Cent. R. R.*, 272 U S. 457---- 43, 44, 47
United States v. *P. R. R. Co.*, 266 U. S. 191---- 44, 45
United States v. *St. Louis Terminal*, 224 U. S. 383; 236 U. S. 194---- 13, 14, 30, 47
Virginian Ry. Co. v. *United States*, 272 U. S. 658---- 51

In the Supreme Court of the United States

OCTOBER TERM, 1927

No. 404

THE BALTIMORE AND OHIO RAILROAD COMPANY et al., appellants

v.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, et al., appellees

BRIEF FOR INTERSTATE COMMERCE COMMISSION

STATEMENT OF THE CASE

This is an appeal under the Act of October 22, 1913, 38 Stat. 219, from a decree of the District Court for the Northern District of Illinois, Eastern Division (Anderson, Circuit Judge, and Wilkerson and Cliffe, District Judges), dismissing, for want of equity, a bill brought by thirteen railroad companies [1] to enjoin and set aside an order of the In-

[1] Baltimore & Ohio R. R. Co.; Chicago & Alton R. R. Co.; Chicago & Eastern Illinois Ry. Co.; Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.; Illinois Central R. R. Co.; Illinois Traction, Inc.; Litchfield & Madison Ry. Co.; Louisville & Nashville R. R. Co.; Mobile & Ohio R. R. Co.; New York, Chicago & St. Louis R. R. Co.; Pennsylvania R. R. Co.; Southern Railway Company; Wabash Railway Company.

terstate Commerce Commission requiring them to bear or absorb the charges for transfer services from their lines in East St. Louis, Illinois, to the lines of six railroad companies [2] in St. Louis, Missouri, on westbound freight traffic passing through both East St. Louis, Illinois, and St. Louis, Missouri, on combination rates which are the same on St. Louis as on East St. Louis. (R. 27–29.)

No opinion was delivered by the court below.

The Commission's order was entered in a proceeding entitled *Chicago, Rock Island & Pacific Ry. Co. et al.* v. *Baltimore & Ohio R. R. Co. et al.*, the report in which is published at 113 I. C. C. 681. The order (R. 27–28) was directed against 39 railroad companies but only the 13 who are appellants herein joined as plaintiffs in the suit to annul the order. (R. 1.)

Proceedings Before the Commission

The complaint (R. 30) was filed February 5, 1925. Hearing was held at St. Louis September 21 to 26, 1925, before an examiner of the Commission, in which all parties participated (R. 75–392). A proposed report by the examiner was issued, to which certain exceptions were taken; briefs were filed and the case was orally argued before the Com-

[2] The four who were complainants before the Commission, viz, The Chicago, Rock Island & Pac. Ry. Co.; Missouri-Kansas-Texas R. R. Co.; Missouri Pacific R. R. Co.; St. Louis-San Francisco Ry. Co.; and two who were cross complainants, viz, the Chicago, Burlington & Quincy R. R. Co.; and the Wabash Railway Company.

mission. July 12, 1926, the Commission rendered its report and order. August 14, 1926, defendants petitioned the Commission for reargument and reconsideration, which was denied. The effective date of the order was October 12, 1926, but by supplemental order (R. 30) it was postponed until December 11, 1926, when it became operative.

The four complainant railroad companies operate lines which extend westward from St. Louis, Missouri, and are called west-side lines. The appellants were among the principal defendants. They operate lines on the east side of the Mississippi river, terminating at East St. Louis, Illinois, and they are called east-side lines.

None of the steam lines, either west side or east side, has its own rails across the Mississippi river between St. Louis and East St. Louis, and there is no direct physical connection between any west-side line with any east-side line in the St. Louis-East St. Louis District. In all instances connection is made through the intermediary of the Terminal Railroad Association of St. Louis and its subsidiaries, all of which are collectively referred to herein as the Association. (Ex. 4.) [3]

The Association is a terminal transfer and switching company with facilities on both sides of the Mississippi river, connected by two bridges, the

[3] This statement is correct in reference to all steam lines. The Illinois Traction System, an electric line, has rails over its own bridge into St. Louis, and it interchanges traffic with the west-side lines in St. Louis. (R. 90.)

Eads and the Merchants. It has connections with all railroads on both sides of the river. The Association is a cooperative enterprise, being owned jointly by 15 of the east-side and west-side carriers. (R. 76; Ex. 4.) It operates under contract with the various proprietary and tenant carriers, and under those contracts the carriers have trackage rights over the rails of the Association between St. Louis and East St. Louis. (Ex. 51.) These trackage rights are exercised by all carriers for passenger traffic, and by two carriers, the Chicago & Eastern Illinois and the Wabash, for freight. (R. 90; 192; 200; 297; Ex. 4, p. 50.) The other carriers utilize the services of the Association for transferring freight. Under the contracts mentioned, the properties of the Association constitute, in effect, an extension of the rails of the east-side lines into St. Louis, and, at the same time, an extension of the rails of the west-side lines into East St. Louis. By virtue of this joint facility the routes of the east-side carriers to St. Louis and of the west-side carriers from East St. Louis overlap between St. Louis and East St. Louis.

As stated in the Commission's report, in addition to the facilities that the Association affords them, several of the east-side lines own or lease other facilities in St. Louis, such as depots and team tracks, where they receive and deliver in their own names traffic moving between St. Louis and points on their lines. The east-side lines advertise through service to and from St. Louis, and in their tariffs

show St. Louis as a point on their lines. In apparently all respects as to both freight and passenger traffic the east-side lines individually recognize St. Louis as a station on their lines. (R. 81–86; 89; 205–206; 211–218; 239; Exs. 4; 21–24; 30–47; 49.)

The transfer charges of the Association vary according to the commodity, ranging from 1½ cents per 100 pounds on low-grade commodities like coal and iron ore to 5 cents per 100 pounds on commodities taking first-class rates. These charges are not collected by the Association directly from the shippers, but in all instances are paid to the Association by the line-haul carriers. Their rates include the transfer, and they pay the Association's charges out of those rates. The proceeding before the Commission presented the question whether the east-side lines or the west-side lines should pay and bear the Association's transfer charges on westbound through freight.

The complaint of the west-side lines alleged that for many years the east-side lines had refused to pay any part of these charges on through freight, either eastbound or westbound; that they had compelled the west-side lines to pay such charges on all freight in both directions; that their action in refusing to pay the charges on through traffic in one direction (westbound) constituted a practice which was unjust and unreasonable, unjustly discriminatory, and unduly preferential and prejudicial, in violation of sections 1, 2, and 3, respectively, of the Interstate Commerce Act. The west-side

lines were willing to continue to pay the transfer charges on *eastbound* traffic, and for that reason they sought relief only in respect of *westbound* traffic.

The complaint further alleged "that under a proper, just, reasonable, lawful, nonprejudicial and nonpreferential practice, the point of interchange as to all through westbound traffic should be on the west side of the Mississippi river" (R. 35–36); and that the east-side lines had "failed, neglected, and refused * * * to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes, all in violation of the duties imposed upon them by the Interstate Commerce Act" (R. 36). Reparation was asked.

The Chicago, Burlington & Quincy Railroad Company and the Wabash Railway Company each has a line which enters East St. Louis from the east and a line which enters St. Louis from the west. Both were named as defendants and both filed cross-complaints with respect to trans-Mississippi traffic moving over their lines west of the river and interchanged with each other or with any of the other east-side lines through the St. Louis-East St. Louis gateway, and, to the extent that they were cross-complainants, sought whatever relief was accorded complainants.

St. Louis is one of the important gateways of transportation between the east and the west and southwest. The eastern and western carriers

whose lines are joined by the Association maintain through routes between points on their lines, and, with other carriers with whom they in turn connect, between practically all points in the United States. A large part of the traffic over these through routes via this gateway moves on joint rates; where joint rates are not in effect the traffic moves on combinations of separately established rates, and, as a rule, the applicable combination is the one made on St. Louis or East St. Louis. Subject to but few exceptions, the combination made on St. Louis is the same as that made on East St. Louis. This is due to the fact that both the east side and the west side lines accord like rates to both points. As an example, the rate of the east-side lines on wrought pipe from Youngstown, Ohio, to East St. Louis and to St. Louis is 21.6 cents and the rate of the west-side lines from East St. Louis and from St. Louis to Augusta, Kansas, is 33.5 cents. Therefore, whether the combination be figured on St. Louis or on East St. Louis, the through combination rate is the same, viz, 55.1 cents. (Ex. 73.)

In all such cases the east-side lines followed the practice of applying the *East St. Louis* combination and refusing to apply the *St. Louis* combination. The purpose and effect of this practice was to compel the west-side lines to pay the charge for transferring the traffic across the river. The application of the East St. Louis combination put the west-side line under the necessity of paying the transfer

charge out of its rate to or from East St. Louis. Of course, if the St. Louis combination were applied, instead of the East St. Louis combination, the necessity of paying the transfer charge would fall upon the east-side lines. To prevent the application of the St. Louis combination and to compel the application of the East St. Louis combination, the east-side lines carried a provision in their published tariffs to the effect that where no joint rate was provided and the combination was the same on St. Louis as on East St. Louis, the through rate would be made on the East St. Louis combination. (R. 261.) In this regard the Commission stated in its report as follows:

> "On traffic in both directions, where the combination is the same on St. Louis as on East St. Louis, the east-side lines apply their St. Louis-East St. Louis rates only to or from East St. Louis, leaving it to the west-side lines to protect the combination rates by applying the St. Louis-East St. Louis rates to or from East St. Louis. This, of course, compels the west-side lines to pay the cost of the transfer, and leaves the full St. Louis-East St. Louis rates for the east-side lines. The entire practice above outlined is in accordance with the tariffs of the east-side lines, which contain a provision to the effect that where no joint rates are provided and the combinations are the same on St. Louis as on East St. Louis, through rates will be made on the East St. Louis combinations. This provision is intended to mean that the

> east-side lines' local rates to and from St. Louis may not legally be used as proportional or basing rates on traffic coming from or destined to points beyond. It has no effect on the amount of the through rates, nor does it create joint rates, but it is a direction to agents and accounting forces to use the east-side lines' factors in the combination rates only to or from East St. Louis." (R. 19.)

The Commission found that for the future the practice of the east-side lines in requiring the west-side lines to bear the transfer charges on westbound freight traffic moving through St. Louis and East St. Louis on combination rates which are the same on St. Louis as on East St. Louis will be unjust and unreasonable, and that the just and reasonable practice with respect to such traffic will be for the east-side lines to bear or absorb all such transfer charges. In making this finding the Commission said:

> "As a rule, the carrier which performs the inbound haul, the delivering carrier, switches or trucks the freight to its connection, or pays the expense of that service if performed by a third party. * * * Among the few instances throughout the country in which reciprocity does not prevail is the situation here presented. * * *"
>
> "Defendants' practice is contrary to the generally accepted practice throughout the country. The usual practice among rail carriers is to divide the switching expenses when the services of an intermediate carrier

are utilized in effecting interchange, the switching charge being absorbed by the carrier that delivers the traffic to its connection. There is a generally recognized obligation on part of all carriers on through traffic to make delivery on the rails of their connections, either direct or by bearing the charges of the intermediate-switching line, and this is the general practice of railroads throughout the country. We believe this to be a just, fair, and reasonable practice for general application, and one which should be followed by the carriers serving the St. Louis-East St. Louis district. We are not unmindful of the fact that such a practice, if applied at St. Louis and East St. Louis, can not bring about exact reciprocity because the volume of the through traffic is considerably greater eastbound than westbound, but complainants are not asking for exact reciprocity; moreover, we believe that adoption of this practice at interchange points generally would distribute the costs of interchange switching among the respective carriers as a whole in a fair and equitable manner."

With respect to traffic moving on joint rates, the Commission said:

"As to this traffic the carriers' divisional arrangements provide that the joint rates, eastbound and westbound, shall break on East St. Louis; that is, that certain proportions shall accrue up to that point and certain proportions beyond. Generally speak-

ing, the divisional arrangements make no specific provision regarding the payment or disposition of the transfer expense. However, as the joint rates break on East St. Louis and as the transfer takes place west of that point the east-side lines have always left the transfer expense in connection with both eastbound and westbound through traffic moving on joint rates to be borne by the west-side lines. Apparently, in only one instance, affecting a relatively small volume of traffic, do the divisional arrangements make any specific provision respecting the transfer. In this instance provision is made for deducting, before prorating, an amount in excess of the transfer expense and adding it to the proportion accruing to the west-side lines. The deduction, of course, has the effect of apportioning the expense between the east-side and the west-side lines."

The Commission made no definite finding in respect to westbound traffic moving on joint rates. It said:

"* * * we are not convinced that the reception for a number of years by the west-side lines of divisions of such joint rates in which the transfer charge was included does not constitute an acquiescence by the west-side lines in such divisions which is tantamount to an agreement on their part to pay the transfer charge on such traffic. As to traffic moving under joint rates, therefore, we are not prepared at this time to make a definite finding upon the issues and record

> before us. We commend to the interested carriers, however, a careful study of the divisions of joint rates on westbound traffic, with a view to readjustment thereof if and where necessary to conform to the just and reasonable practice in respect of interchange switching hereinabove approved for general application. If this is not done within a reasonable time complainants are at liberty to again bring this matter to our attention."

Accordingly, the Commission's order has no application whatever to the transfer charges on traffic moving on joint rates. It is expressly confined to the transfer charges on traffic moving on combination rates and then only when the St. Louis combination is the same as the East St. Louis combination.

The allegations of the complaint of unjust discrimination and undue prejudice and preference in violation of sections 2 and 3 of the Act were not sustained; and the prayer for reparation was denied.

The Evidence

In addition to the evidence supporting the above-stated facts, the record contains much other important evidence, and in view of the appellants' contention that the evidence was insufficient, a further statement of the facts established by the record is here set out.

The stock of the Association is held in equal proportions by 15 of the east-side and west-side car-

riers. (R. 76–77.) Five of the 15 are west-side carriers, the remaining 10 are east-side carriers. The east-side carriers hold a majority of the shares. (R. 93.) Representatives of the east-side carriers have always constituted a majority of the Board of Directors of the Association. (R. 93.) It was testified that through this domination and control of the Association's Board of Directors, the east-side lines for many years have been able to force the west-side lines to pay and bear the transfer charges on through traffic in both directions. (R. 95.)

The Association is a common carrier, but may not legally operate in all respects as a railroad transportation company, having been perpetually enjoined from operating otherwise than as a terminal and interchange facility for railroads in *United States* v. *St. Louis Terminal,* 224 U. S. 383, and 236 U. S. 194. Exhibit No. 50 is a copy of the final decree in that proceeding, filed March 2, 1914, as amended by the decree of January 29, 1917.

The charges for the transfer and other services performed by the Association are fixed at a figure which is sufficient only to pay its operating and other expenses. No profit has ever been made out of the operation of its properties and no dividend has ever been declared on any of its outstanding stock. The 15 railroads which constitute the Association are guarantors of the bonds and other obligations of the Association and are its sponsors. (Ex. 58.)

Exhibit No. 51 is a copy of the various agreements between the Association and its proprietary companies. The original agreement was made in 1889; it was amended Sept. 21, 1914, to conform to the decree in *United States* v. *St. Louis Terminal, supra.* The exhibit consists of 145 printed pages. As found by the Commission these agreements contemplate that all carriers shall have equitable treatment in the matter of service, rights, accommodations, benefits, burdens, charges, and *expenses.* This exhibit was introduced by the west-side lines to show that through their payment of the transfer charges on nearly all traffic in both directions they are contributing in major part to the Association's expenses and that, therefore, its expenses are not equitably apportioned, although the contracts contemplate that they should be.

The east-side lines operate their passenger trains in their entirety to and from the Union Station in St. Louis, usually hauling them with their own locomotives. (R. 200.)

Passenger, mail, and express traffic passing through St. Louis is interchanged between the east-side and west-side carriers at the Union Station in St. Louis. (R. 202.)

The Chicago & Eastern Illinois (an east-side line) interchanges its through traffic direct with the Frisco and Missouri Pacific (west-side lines) at 23d St., St. Louis, handling its freight with its own power over the tracks of the Association, using the

Merchants bridge, but the west-side lines pay and bear the transfer expense just as though the service had been performed by the Association. (R. 90, 197.)

A history of the efforts made by the west-side lines, beginning in 1905, to obtain relief from the transfer expense on traffic in one direction is given at R. 91–95, 237–238, and 343–344. Only part of this need be referred to. In August, 1914, the west-side lines attempted to change the practice by declining to pay the transfer expense on eastbound traffic. The eastern lines refused to accept the freight unless the transfer was paid by the west-side lines. (R. 268–269.) As a result several hundred cars were handled between the western and eastern lines many times. Congestions followed; the Terminal became blocked. (R. 92.) At a meeting of the Board of Directors of the Association held at this time it was voted to refuse to handle the traffic unless the western lines guaranteed the transfer charge. (R. 92–93.) At that meeting the eastern lines were in a majority. (R. 93.) Meanwhile, many complaints had been made to the Commission by shippers because of delay to their freight, and the Commission took the matter up informally with the carriers. Thereupon, the western lines, in order to prevent further hardships upon their patrons, yielded and resumed their old practice of paying the transfer charge on eastbound as well as on westbound traffic. (R. 343–344.) In August, 1920,

the west-side lines instituted the contempt proceedings referred to in *Terminal R. R. Asso.* v. *United States,* 266 U. S. 17. This court there held that the subject should be first submitted to the Commission and thereupon the west-side lines filed the complaint which began the present proceedings. (R. 94.)

There was much evidence to support the finding of the Commission regarding the generally accepted practice of carriers throughout the country of reciprocally assuming the expenses of interchange service. This evidence consisted of a comprehensive and detailed statement of the practice prevailing at a great many points of interchange in the United States where investigation has been made, supplemented by the testimony of experienced railway traffic and operating officials who were familiar with the general practice. (R. 104–182; 207–211; 220–223; 224–234; 238–239; 362–363; 385–386.)

This testimony shows that the following practice generally prevails:

Where two carriers connect directly, the line carrying the freight to the point of interchange, i. e., the delivering carrier, delivers the freight upon the joint interchange tracks. (R. 104–105, 107.)

Where no direct physical connection exists and it is necessary to use the services of an intermediate switching line, the customary practice is for the delivering line to assume and bear the expense of making delivery of its freight to the receiving line,

using the intermediate switching line in order to effect that delivery. (R. 105–107.)

Witness James E. Hutchison, Vice President in charge of operations of the St. Louis–San Francico Railway, described the practice as follows:

> "* * * The principle has been universal that a railroad bringing traffic to a terminal which is to be delivered to another railroad, either for placement at industries on that line of road or for movement out over that line of railroad, stands the expense incident to such delivery.
>
> In many cases the railroads do not have direct connection one with the other and an intermediate line of some description is used. In such cases it has been the practice that the line that originates the business or brings it into a terminal for delivery to another line compensates the intermediate line for any service it may render, either by the use of its rails or switching service which it may perform in effecting the delivery." (R. 220.)

In some instances the receiving line, instead of the delivering line, pays the expense of intermediate switching, "But in any event, the practice is always reciprocal between the lines." (R. 222.)

The Car Service Rules of the American Railway Association, an association representing practically all the railroads of the United States, recognize that there is an obligation on the part of carriers to make delivery of through traffic to the receiving

carrier in its yard and on its designated track for receipt of the traffic, either by direct delivery with the power of the delivering line or by using an intermediate-switching line to act as its agent in effecting delivery of the through shipment. (R. 224.) The obligation of the inbound carrier has not been fulfilled when the shipment has reached the end of its rails; there is a further obligation, that of placing the shipment in the proper channel for its continuous movement to final destination. This can be done only by the delivery of the shipment in the yard of the outbound carrier. Whether this is accomplished direct by the use of the inbound carrier's power, or through the agency of an intermediate-switching line, or through a reciprocal arrangement between the carriers whereby the receiving line performs for the delivering line the service for which the delivering line is responsible, the principle is the same. Rule 6 of the code of Car Service Rules of the American Railway Association reads in part:

> " Cars shall be considered as having been delivered to a connecting railroad when placed upon the track agreed upon and designated as the interchange track for such deliveries, accompanied or preceded by proper data for forwarding and to insure delivery, and accepted by the car inspector of the receiving road." (R. 225.)

Further obligation of the delivering line is recognized in American Railway Association Car

Servive Rule 14, which rule places upon delivering line the responsibility for cost of transfer of shipments delivered in cars which can not be forwarded by receiving line because of (a) defective equipment; (b) improper loading or overloading; (c) when delivering line does not desire its equipment to go beyond junctions; (d) when cars can not pass approved clearances. Under these sections of rule 14 it is the recognized obligation of the delivering carrier to not only make delivery in the yard of the outbound carrier but to insure the through and uninterrupted movement of the shipment by the outbound carrier, or assume the costs of placing the shipment in condition for such forwarding by the outbound line. (R. 225.)

Regarding traffic delivery at destination, there is a recognized obligation on the part of the inbound carriers to effect final delivery to consignee at billed destination, either upon the rails of the inbound carrier or upon the rails of a terminal switching line within designated switching limits. The obligation is further assumed when it is necessary to effect delivery to a consignee on a terminal switching line through an intermediate switching line. (R. 226.)

In accepting a shipment at point of origin for transportation to final destination there is no difference in principle between the obligation of the carrier to make final delivery at destination and the obligation to effect delivery to the outbound carrier at the junction point where shipment leaves its line

in the through movement to destination. In the first instance the inbound carrier assumes the expense of effecting actual delivery to consignee on its own rails, on the rails of a terminal switching line, or through an intermediate switching line and a terminal switching line, and in addition recognizes the terminal switching line and intermediate switching line as its agents. This is evidently the intent of the American Railway Association Per Diem Rule 5 which reads in part:

> "An amount for each car in switching service may be reclaimed by each individual switching road from the road *for which the service was performed.* This amount shall be based upon the average number of days, not to exceed 5, for cars handled in terminal switching service. * * *" (R. 227.) (Italics ours.)

The Association makes a per diem reclaim as to east and westbound through traffic moving across the Mississippi river at St Louis and East St. Louis. The reclaim made by the Association where westbound through traffic is involved is made upon the delivering carrier, viz., the east-side line. Where eastbound traffic is concerned the reclaim is likewise made against the delivering line which in this instance is the west-side line. The practice of making a per diem reclaim on the east-side lines as to westbound traffic has been in effect at the St. Louis terminal for 10 or 15 years. (R. 241–242.) This evidence was adduced to show that, while the west-

side lines have paid the Association's transfer charge, nevertheless there was a recognition by the east-side lines of the fact that the Association was their agent in performing the transfer service in that they honored the Association's per diem switching reclaims, under rule 5 of the Car Service Rules of the American Railway Association, which provides that such per diem shall be paid by the line "for which the service was performed."[1]

The situation at St. Louis as between the east-side lines, on the one hand, and the west-side lines, on the other hand, is entirely divorced from the general practice, in that the west-side lines are required to assume the intermediate switching expense on through traffic in both directions. (R. 228.)

The practice between carriers in the method of interchange—reciprocity in taking care of the switching charges—is in effect at junctions where the rates are on combinations of locals, as well as where the rates are joint through rates. (R. 373; 375; 385–386.)

It was shown that the east-side carriers themselves follow the above practice generally when

[1] Compare *Mo. Pac. R. R. Co.* v. *Reynolds-Davis Grocery Co.*, 268 U. S. 366. In regard to per diem reclaims see *Industrial Railways Case*, 29 I. C. C. 212, 231; *Birmingham So. R. R. Co.* v. *Ala. Great So. R. R. Co., Director General, Agent*, 61 I. C. C. 551. Section 15 (8) of the Interstate Commerce Act, giving shippers the right to route traffic under certain circumstances, recognizes that it is the duty of each carrier in a through route to transport the property over its own line "and deliver the same to a connecting line or lines * * *."

interchanging traffic other than that passing between them and the west-side lines through East St. Louis-St. Louis. For example, at East St. Louis the east-side lines interchange traffic with each other (traffic not crossing the river) through the intermediary of the Association and the interchange expenses are borne reciprocally. (R. 137–153.)

The evidence regarding the interchange practice of carriers was practically undisputed; and only two exceptions to the general practice were shown (1) interchange at St. Louis between the Illinois Traction System and the west-side lines, through the intermediary of the Association, where the expense is borne by the Traction System on traffic in both directions (R. 153–156), but this is no doubt due to the fact that the service performed by the Traction System in handling traffic over its bridge into St. Louis is paid for by the west-side lines on traffic in both directions (R. 90); (2) interchange between certain carriers at Cincinnati, Ohio-Covington, Ky. There the expense of interchange between the Big 4 and the L. & N. is borne by the L. & N. on traffic in both directions, but this is not in fact an exception to the general rule because the rails of the Big 4 do not extend to Covington. (R. 199.)

Based on a test period of 28 months on westbound traffic, and of 17 months on eastbound traffic, the carload movement between the four west-side lines and the east-side lines at St. Louis and

East St. Louis was divided, on the average per month, 29 per cent westbound and 71 per cent eastbound (R. 242–246; 247–248; 250–251; Exhibits 52, 53, 55, and 56.) On that basis the transfer charges of the Association on this traffic during 12 months embraced within both of those periods would have divided $1,746,016.55 on eastbound traffic and $713,161.69 on westbound traffic. These were the aggregate transfer charges of the Association on all traffic interchanged between the east- and west-side lines, including traffic moving on joint rates as well as on combination rates.

Evidence Regarding Rates

The evidence showed the various rate territories between which joint rates are in force and those between which the St. Louis-East St. Louis combinations apply. (R. 279, 281, 283, 291, 292, 298, 329, 339, 342, 343.) In the opinion of one witness, a traffic official, not over 15% of the traffic moves on combination rates which are the same on St. Louis as on East St. Louis. (R. 390.)

From all territory east of the Mississippi river, except a zone within 100 miles east of East St. Louis, the rates of the east-side lines are the same to St. Louis as to East St. Louis. This has been true since 1908. (R. 267.) From the 100-mile zone mentioned, which includes a large bituminous coal producing area, the rates are higher to St. Louis than to East St. Louis. (R. 267.) Through traffic from this zone to points west of St. Louis

moves on joint rates and therefore the order in question does not apply thereto. (R. 281, 283, 292, 298.)

On all traffic from the territory east of the Mississippi destined to St. Louis, and on all traffic originating at St. Louis and destined to that territory, the east-side lines pay and bear the transfer charges of the Association. (R. 297.)

To territory within about 100 miles west of St. Louis the rates of the west-side carriers from East St. Louis are higher than from St. Louis, sometimes to the extent of the Association's transfer charge. (R. 364.) No joint rates are in effect to this territory on traffic from points east of the Mississippi (except from the 100-mile zone east of East St. Louis) and this traffic moves on combination rates. The St. Louis combination, and not the East St. Louis combination, is applicable, because the St. Louis combination is the lower, due to the fact that the St. Louis-East St. Louis rates of the east-side carriers are on a common level, while the rates of the west-side lines from East St. Louis to this 100-mile territory are higher than from St. Louis. With respect to this traffic there is no question as to who must bear the transfer expense, as it is included in only one of the rate factors, i. e., the factor of the east-side lines to St. Louis. On this traffic, therefore, the east-side lines have paid and borne the transfer expense. (R. 99–102; 482; Ex. 7.)

To all territory west of the Mississippi (except the 100-mile zone) the rates of the west-side lines

from East St. Louis are the same as from St. Louis. (R. 364–365.)

On traffic from eastern points to western points beyond the last-mentioned 100-mile zone, on which the St. Louis and East St. Louis combinations are equal, the east-side lines have refused to apply the St. Louis combination, have forced the application of the East St. Louis combination, and have thus compelled the west-side lines to pay the transfer expense out of their rate factor from East St. Louis.

As a result, the east-side lines receive a greater net revenue on through traffic than they do on local St. Louis traffic. As previously shown, St. Louis is a station on the lines of the east-side carriers, and, with the exception of the 100-mile zone east of East St. Louis, their rates are the same to St. Louis as to East St. Louis. Through the agency of the Association their rails reach and serve industries in St. Louis. The east-side lines absorb all switching and other charges necessary to effect such deliveries in St. Louis at the St. Louis rate. (R. 297.) Of course, on this traffic the east-side lines pay the Association's charge for transferring the traffic across the river, but when the traffic is transported to a point on a west-side line beyond the St. Louis switching district and beyond the 100-mile zone, the east-side line refuses to pay the transfer expense. Thus, on such through traffic the east-side lines obtain a greater revenue (the full St. Louis-East St. Louis rate, undiminished by ab-

sorption of transfer or switching expense) than it would on the same traffic delivered locally in St. Louis. (R. 345, 347.)

This is illustrated by Exhibit No. 73, a statement of shipments from eastern points to Kansas, on which the St. Louis-East St. Louis combinations were equal. On each shipment the East St. Louis combination was applied, consequently the east-side line received and retained its full St. Louis-East St. Louis rate; and the west-side line was compelled to pay the transfer charge out of its factor. The testimony shows that on these shipments the east-side lines received $3,471.64; that the transfer charges (paid by the west-side lines) were $260.02, whereas had the same shipments been billed and delivered locally at St. Louis the transfer charges would have been paid by the east-side lines and therefore the net revenue would have been $3,-211.62, or about 7.4 per cent less than they actually received. (R. 345–347.)

There was much other evidence regarding the rates of both the east-side and west-side carriers directed to the opposing contentions that each group of carriers had adjusted their St. Louis-East St. Louis rates so as to compensate for the transfer expense. This evidence shows, in general, that, due principally to competitive conditions, the west-side lines extended their St. Louis rates to East St. Louis in the first instance without any increase to compensate them for the transfer expense which

they were thereby obliged to assume, and that the force of these competitive conditions have compelled a continuance of that original adjustment, while the east-side lines have been able to effect several increases in revenue to offset the transfer expense which they necessarily assumed when they equalized their St. Louis-East St. Louis rates. This evidence is here summarized.

Due to the competition of the Alton, the west-side lines extended their St. Louis rates to East St. Louis in the first instance without any increase. (R. 87–88; 254–257; 324.) Competition of the Cotton Belt, the Illinois Central, the Missouri Pacific, and the Burlington, as well as the Alton, each of which has a line which reaches East St. Louis from the east side, and which name the same rates from East St. Louis as from St. Louis, via other crossings, has compelled a continuance of the original adjustment, and has prevented the west-side lines from increasing their St. Louis-East St. Louis rates to an extent sufficient to cover the Association's transfer charges. (R. 354–358.) Action by State commissions and the Interstate Commerce Commission in rate cases has also exerted an influence upon the matter. (R. 235; 354–356.)

On the other hand, the evidence shows that when the east-side lines equalized their St. Louis-East St. Louis rates in 1908 they first increased their East St. Louis rates and then extended the increased rates to St. Louis. At the same time, sim-

ilar increases were made in their proportional rates to upper Mississippi River crossings, and these rates applied on traffic from all eastern points to the western territory, except on transcontinental traffic, a tremendous volume of through traffic, vastly larger than the St. Louis traffic. (R. 265–266; 342–343.) Further, in revising their rates under the authority of the Commission's order in *C. F. A. Class Scale Case,* 45 I. C. C. 254, the east-side lines added three miles to the actual East St. Louis mileage in computing their rates to St. Louis, this, of course, for the purpose of covering the expense of the river transfer. (R. 267, 273, 280.) The scale of distance rates there prescribed resulted in material increases. Before the revised rates were made effective they were further increased 15%, under the authority of *The Fifteen Per Cent Case,* 45 I. C. C. 303. (R. 342–348.)

It is evident that whenever the local rates of the east-side lines to St. Louis, thus increased to offset the transfer expense, were applied to through traffic, those lines received revenue for a service which they did not perform and for which they did not pay, but which was borne by the west-side lines.

The above is far from a complete statement of the evidence submitted to the Commission. It is, however, illustrative of the general character of the evidence and appears to be sufficient to indicate there was substantial evidence to support the Commission's order.

Proceedings in Court Below

On November 12, 1926, the 13 railroads, appellants herein, filed their bill in the United States District Court for the Northern District of Illinois, Eastern Division, seeking to enjoin and set aside the Commission's order. (R. 1.) The United States was named as defendant. The Commission and the four west-side lines intervened as defendants. All defendants filed answers. (R. 59, 62, 65.) Final hearing was held before the three-judge court November 29, 1926. (R. 74.) December 8, 1926, the court entered its order dismissing the bill for want of equity. (R. 68.)

Appellants' Contentions

The various contentions of the appellants are reducible to two propositions, viz.,

I. That the Commission had no power to make the order.

II. That the order is not supported by substantial evidence.

ARGUMENT

SUMMARY

I. The order is within the power conferred upon the Commission. This court so held in *Terminal Railroad Asso.* v. *United States,* 266 U. S. 17.

II. The order is supported by substantial evidence. Evidence required by section 15 (6) of the Act in cases relating to divisions of joint rates was not necessary in this case, because the order does not prescribe divisions of joint rates. The

reasonableness of the level of the rates was not in issue and absence of evidence relating thereto does not affect the validity of the order.

I

The Order Is Within the Power Conferred Upon the Commission

The question whether the Commission has the power to make an order fixing liability for the transfer charges here under consideration is no longer open to debate, because that particular question was decided in the affirmative by this court in *Terminal R. R. Asso.* v. *United States,* 266 U. S. 17.

In August, 1920, the four west-side lines who were complainants before the Commission in the case at bar filed a petition and motion in the District Court of the United States for the Eastern District of Missouri to have the east-side lines and the Association adjudged guilty of contempt of court for violating the decree entered in pursuance of the mandate of this court in *United States* v. *St. Louis Terminal,* 224 U. S. 383 and 236 U. S. 194, a proceeding brought by the United States against the Association, the east- and west-side lines, which owned its capital stock, and certain others, alleging a combination in violation of the Sherman Anti-Trust Act.

The substance of the decree referred to is stated in the opinion of this court, 266 U. S. at pp. 23–25, as follows:

"1. The Terminal Railroad Association of St. Louis is an unlawful combination contrary to the Anti-Trust Act of July 2, 1890 (26 Stat. 209), when it and the various bridge and terminal companies composing it are operated as railroad transportation companies. The combination may, however, exist and continue as a lawful unification of terminal facilities upon abandoning all operating methods and charges as and for railroad transportation and confining itself to the transaction of a terminal business such as supplying and operating facilities for the interchange of traffic between railroads and to assist in the collecting and distributing of traffic for the carrier companies, switching, storing, and the like, and modifying its contracts as herein specified. An election having been made to continue the combination for terminal purposes, the defendants are therefore perpetually enjoined from in anywise managing or conducting the said Terminal Railroad Association or any of its constituent companies and from operating any of the properties belonging to it or its constituents otherwise than as terminal facilities for the railroad companies using the same, and from making charges otherwise than for and according to the nature of the services so lawfully authorized to be rendered. Provided, however, that the right of said Terminal Railroad Association as an accessory to its strictly terminal business to carry on transportation as to business exclu-

sively originating on its lines, exclusively moving thereon, and exclusively intended for delivery on the same is hereby recognized, and nothing in this decree shall be construed to deny such rights."

" Paragraph 2 of the decree directs a reorganization of the contracts between the defendant railroad companies and the Terminal Association by providing for the admission of any railroad to joint ownership and control of the combined terminal properties on terms of equality with the then proprietary companies, and for the use of the terminal facilities by any railroad not a joint owner upon such terms as will, in respect of use, character, and cost of service, place every such railroad upon as nearly an equal plane as may be, with respect to expenses and charges, as that occupied by proprietary companies, and by eliminating from the existing agreement any provision which restricts any proprietary company to the use of the facilities of the Terminal Association.

" Paragraph 3 abolishes the practice of billing to East St. Louis or other junction points and then rebilling traffic destined to St. Louis or points beyond.

"Paragraph 4 abolishes any special or so-called arbitrary charge for the use of the terminal facilities in respect of traffic originating within the so-called 100-mile area that is not equally applied in respect of traffic originating outside of that area.

"Paragraph 5 extends the effect of the decree to all railroad companies thereafter

admitted to ownership or use of the terminal facilities.

"Paragraph 6 is as follows: 'Nothing in this decree shall be taken to affect in any wise or at any time the power of the Interstate Commerce Commission over the rates to be charged by the Terminal Railroad Association, or the mode of billing traffic passing over its lines, or the establishing of joint through rates or routes over its lines, or any other power conferred by law upon such commission.' "

The proceedings in the District Court in the contempt suit and the decree entered therein are stated at pp. 26–27 of the opinion of this court, as follows:

". . . The parties so complained of (appellants here) appeared and moved to dismiss the petition and also filed answer. An examiner was appointed, and, after the taking of evidence and a hearing, the court denied the motion to dismiss and entered its decree that the appellants 'have continuously since the entry of said final order and decree, in contempt of this court, violated the terms thereof and are still violating its said terms—

" '(a) In that defendants, the Terminal Railroad Association of St. Louis and its subsidiary companies are not acting in good faith as the impartial agents of the various proprietary lines.

" '(b) In that the proprietary lines other than the petitioners, through the domination

and control of the Board of Directors of defendant, the Terminal Railroad Association of St. Louis and its subsidiaries, compelled the petitioners to pay the Terminal Railroad Association its transfer charges for supplying and operating facilities for the interchange of both through east bound and through west bound freight traffic between the east-side lines and the west-side lines.

" '(e) In that the defendants [the east side lines above named] . . . have not paid and are not now paying the reasonable transfer charges of defendant, the Terminal Railroad Association of St. Louis and its subsidiary companies on west bound through freight to the rails' of the petitioners and other defendants whose lines enter St. Louis from the West. . . .

" And the decree commands that within 60 days the appellant companies cease violating the final decree in the respects above set forth, and that the east side lines ' be and they are hereby required to pay within 60 days after the amount of same shall have been ascertained and determined for the use and benefit of said west side lines . . . the total amount of the transfer charges of defendant Terminal Railroad Association of St. Louis and its subsidiary companies paid by said west side lines on west bound through freight of said east side lines to the rails of said west side lines at St. Louis, Missouri; from the date of the entry of said final decree, to wit; March 2, 1914, to the date of

this order . . .' And the decree prescribed and directed how such total amount should be determined."

It is obvious from the above quotations that the transfer charges referred to in the contempt proceedings were the same as those under consideration in the case at bar. That the controversy there was the same as here is shown by the following quotation from page 27 of this court's opinion:

> "The proceedings were instituted by the west side lines, not to vindicate the authority of the court, but to enforce rights claimed by them under the original decree. *The controversy is between them and the east-side lines as to whether the former or the later shall bear transfer charges on westbound through freight.*"

This court reversed the decree of the lower court, holding that the refusal of the east-side lines to pay the transfer charges was not a violation of the decree in the Anti-Trust suit.

This court further held that the subject matter of the suit, which obviously was the same as in the case at bar, was one within the jurisdiction of the Interstate Commerce Commission. In so holding this court said:

> " The making of rates is a legislative and not a judicial function. *Keller* v. *Potomac Electric Co.*, 261 U. S. 428, 440; *Ohio Valley Co.* v. *Ben Avon Borough*, 253 U. S. 287, 289; *Louisville & Nashville R. R. Co.* v. *Garrett*,

231 U. S. 298, 305; *Interstate Commerce Commission* v. *Humboldt S. S. Co.*, 224 U. S. 474, 483; *Prentis* v. *Atlantic Coast Line Co.*, 211 U. S. 210, 226. The division of joint rates is also legislative in character. The Interstate Commerce Commission is authorized to establish through routes and joint rates and to prescribe conditions upon which such routes shall be operated and to fix divisions of such rates among carriers. Section 15(1), (3), (6), Interstate Commerce Act, Section 418, c. 91, 41 Stat. 485, 486. It is well settled as a general rule that the question of the reasonableness of rates or of divisions of joint rates will not be considered by the courts before application has been made to the Commission. *Texas & Pacific Ry.* v. *Abilene Cotton Oil Co.*, 204 U. S. 426, 440; *Robinson* v. *Baltimore & Ohio R. R.*, 222 U. S. 506; *Mitchell Coal Co.* v. *Pennsylvania R. R. Co.*, 230 U. S. 247, 254–261; *Skinner & Eddy Corporation* v. *United States*, 249 U. S. 557, 562; *United States* v. *Abilene & Southern Ry. Co.*, 265 U. S. 274. The Terminal Association and its subsidiaries are common carriers by railroad and, like the proprietary companies, are subject to regulation by the Commission. The original decree does not purport to regulate rates or prescribe divisions of joint rates, or fix liability for such transfer charges. On the other hand, it expressly provides that it shall not affect in any wise or at any time the power of the Commission over charges to be made by the Terminal Association or its

> subsidiaries, or any power conferred by law upon the Commission. In the exercise of its powers under existing law, the Commission is untrammeled by the decree and may make and regulate rates on through freight and the divisions thereof." (Ibid. 30–31.)

Examination of the transcript of record in that case shows that the evidence therein was largely the same as that adduced before the Commission in the case at bar. As here, there was a full explanation of the basis of making and applying rates through the St. Louis-East St. Louis gateway, and it was fully explained what traffic moved through that gateway on joint rates and what moved on the St. Louis-East St. Louis combinations. At pp. 440–441 of the record in that case (No. 425, October Term, 1923) is a comprehensive statement of the traffic which moved through that gateway on joint rates, followed by a statement which reads:

> "All of the foregoing traffic is covered by joint through rates. On all other traffic than that above described, the rates are made on combination of rates published separately to and from the Mississippi River. Such other traffic embracing that moving between points east of the Indiana-Illinois State Line, and Lake Michigan, upon the one hand, and all territory west of the Mississippi River, and on, and north of the Arkansas, Missouri, and Oklahoma-Kansas State Lines, including New Mexico and Arizona, but exclusive of Trans-Continental traffic, upon the other hand. As to this traffic where the rates make

upon the Mississippi River combinations, the current custom, and that heretofore followed has been to allow the lines east of East St. Louis their local rate. To the statement made in this paragraph, the following exception exists:

"A—The Burlington interchanges eastern traffic with western roads at St. Louis.

"B—In a comparatively few instances, the lowest combination of locals make on St. Louis, and not on East St. Louis; in such instances the eastern lines absorb the bridge tolls.

"C—On traffic moving between Illinois and Missouri points within a short radius east and west of St. Louis and East St. Louis, the rates make on the Mississippi River combination, with bridge tolls added."

See also pp. 265, 269, and 430 of that record.

In view of the facts in the case, it is evident that the holding of the court that the subject matter of the suit was within the jurisdiction of the Commission applies with equal force to instances in which the traffic moves on combination rates as to instances in which it moves on joint rates. No distinction was made in the opinion as between the two traffics. It follows, therefore, that the holding of this court was that the entire subject matter is within the jurisdiction of the Commission. After the decision of this court therein—rendered October 14, 1924—the west-side lines filed their complaint with the Commission.

Appellants concede that the Commission has jurisdiction under section 15(6) but contend that the order can not be sustained under that provision because of lack of evidence. This contention will be discussed under section II hereof. Appellants also contend that the subject matter of this suit "is not a 'practice' within the meaning of that word as used in the Interstate Commerce Act, but if it were a 'practice,' would be a practice not of the plaintiffs but of the West Side Lines * * *" We think it is clear that the practice was one within the contemplation of the Act and that the evidence shows it was a practice of the east-side lines.

Various provisions of the Act vest the Commission with jurisdiction over practices of carriers, viz., Section 1, par. (6), read in connection with par. (3), and Section 15, pars. (1) and (3), pertinent provisions of which read as follows:

> "Section 1 (6): It is hereby made the duty of all common carriers subject to the provisions of this Act to establish, observe, and enforce . . . just and reasonable regulations and *practices* affecting all . . . matters relating to or connected with the receiving, handling, *transporting,* storing, and *delivery* of property subject to the provisions of this Act which may be necessary or proper to secure the safe and prompt receipt, handling, *transportation,* and delivery of property subject to the provisions of this Act upon just and reasonable terms, and every unjust and unreasonable classifi-

cation, regulation, and *practice* is prohibited and declared to be unlawful."

"(3) The term 'transportation' as used in this Act shall include . . . all services in connection with the receipt, delivery, . . . and *transfer in transit* . . . and handling of property transported."

"Section 15(1): That whenever, after full hearing, upon a complaint made as provided in section 13 of this Act, . . . the Commission shall be of opinion . . . that any individual or joint classification, regulation or *practice* whatsoever of such carrier or carriers subject to the provisions of this Act, is or will be unjust or unreasonable . . . or otherwise in violation of any of the provisions of this Act, the Commission is hereby authorized and empowered to determine and prescribe . . . what individual or joint classification, regulation, or *practice* is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, . . . and shall adopt the classification and shall conform to and observe the regulation or *practice* so prescribed."

"(3) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint . . . establish through routes, joint classifications, and joint rates, fares, or charges, applicable to

> the transportation of . . . property, . . . and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated; . . . The Commission shall not, however, establish any through route, classification, or *practice,* or any rate, fare, or charge, between street electric passenger railways not connected in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character; nor shall the Commission have the right to establish any route, classification, or *practice,* or any rate, fare, or charge when the transportation is wholly by water. . . ." (Italics ours.)[1]

In the case at bar the east-side lines have followed a very definite practice for many years respecting all shipments interchanged by them with the west-side lines and passing through St. Louis and East St. Louis at combination rates made the same on both points, and that is, in each instance they have applied the East St. Louis combination and have refused to apply the St. Louis combination, to the

[1] The last sentence of this paragraph, prohibiting the Commission from establishing any *practice* as between certain types of carriers, is persuasive that in the absence of such a provision the Commission would have such power and infers that the Commission may establish *practices* as between other carriers not within the prohibition, an inference which is strengthened by the fact that this sentence was amended by Transportation Act, 1920, by the insertion of the word "*practice.*"

end that the transfer charge would not be included in the rate factor accruing to them and would be included in the west-side lines' factor. This practice was published by the east-side lines in the form of a provision in their tariffs which were posted and filed with the Commission. It was published in the tariffs of all the east-side carriers applying to and from St. Louis and East St. Louis. (R. 261.) In the language of Witness Sudborough, General Traffic Manager of the Pennsylvania System,

> "To make the point clear, the provision that I have read has the effect of preventing the use of the St. Louis combination in making rates where the East St. Louis combination is the same, that is, produces the same through rate that would be produced by the use of the St. Louis combination." (R. 262.)

This tariff provision was published in 1914 after the west-side lines had declined to pay the transfer charges on eastbound traffic, and its intended effect was to control the application of the rates so as to cast the burden of the transfer charges upon the west-side lines. (R. 343–344.)

Thus, the practice is one directly concerned with *the application of rates.* The Commission's order regulates the application of the existing rates; its effect is to require the application of the St. Louis combination on westbound through traffic, instead of the East St. Louis combination, to the end that the transfer charge will have to be paid by the east-side lines out of their rate factor to St. Louis.

Its further effect is to require the cancellation of the above-mentioned tariff provision of the east-side lines. The order does not change the present practice in respect of eastbound traffic, but on that traffic leaves the East St. Louis combination applicable; nor does it change the practice where the St. Louis combination is the lower, as in the case of traffic from eastern points to the 100-mile zone west of St. Louis.

As a result of this practice the west-side carriers were damaged, and they had the right to complain under section 13 (1) of the Act, which provides that any common carrier may complain to the Commission of anything done or omitted to be done by any common carrier in contravention of the provisions of the Act. *Penna. Co.* v. *United States,* 236 U. S. 351; *Chgo., Indpls. & Louisv. Ry. Co.* v. *United States,* 270 U. S. 287; *United States* v. *N. Y. Cent. R. R.,* 272 U. S. 457, 462.

We think that this practice, closely related as it is to the application of interstate rates of carriers subject to the provisions of the Act, is one within the contemplation of the provisions of the Act quoted above and within the jurisdiction of the Commission.

But the question of importance is not whether the subject matter is a "practice" but whether it is one within the power of the Commission under any provision of the Act. *Sou. Pac. Co.* v. *Interstate Commerce Com'n,* 200 U. S. 536, 556–557.

We think that the matter is within the control of the Commission under the comprehensive powers conferred upon it (1) to require extensions of lines, section 1 (21), *Railroad Commission of California* v. *Sou. Pac. Co.*, 264 U. S. 331, *Ala. & Vicksb. Ry. Co.* v. *Jackson & Eastern Ry. Co.*, 271 U. S. 244; *United States* v. *P. R. R. Co.*, 266 U. S. 191; (2) to control the matter of physical connections between main lines of railroads, section 1 (18) to (21), section 1 (4) and section 15 (3), *Ala. & Vicks. Ry. Co.* v. *Jack. & East. Ry. Co., supra;* (3) to establish through routes, section 15 (3), *United States* v. *Amer. Ry. Exp. Co.*, 265 U. S. 425, *St. Louis S. W. Ry. Co.* v. *United States*, 245 U. S. 136; (4) to require carriers to make reasonable rules and regulations with respect to the operation of through routes, section 1 (4), *Cent. R. R. Co.* v. *United States*, 257 U. S. 247, 257; (5) to fix the terms and conditions under which through routes shall be operated, section 6 (13) and section 15 (3), *United States* v. *Amer. Ry. Exp. Co., supra, United States* v. *N. Y. Cent. R. R. Co.*, 272 U. S. 457, and, incidentally to fix the point of interchange of traffic as between carriers forming the through route, *Routing on Coal from Western Maryland Railway Mines*, 66 I. C. C. 103 and 74 I. C. C. 127, *Chgo. Mil. & St. P. Ry. Co.* v. *Un. Pac. R. R. Co.*, 88 I. C. C. 312; (6) to control the movement, exchange and interchange of cars used in the transportation of property and to enforce just and reasonable rules, regulations, and

practices with respect to car service, section 1 (10) to (17), *Peoria & Pekin Union Ry. Co.* v. *United States,* 263 U. S. 528, *United States* v. *Mich. Port. Cement Co.,* 270 U. S. 521, *Ala. & Vick.* v. *J. & E., supra;* (7) to require carriers to afford reasonable, proper, and equal facilities for the interchange of traffic, section 3 (3), *Chgo. Indpls. & Louisv. Ry. Co.* v. *United States,* 270 U. S. 287, *Penna. Co.* v. *United States,* 236 U. S. 351, *Louisv. & Nash. R. R.* v. *United States,* 238 U. S. 1, *United States* v. *P. R. R. Co.,* 266 U. S. 191.

Of special relevancy is the power to require carriers to make reasonable rules and regulations with respect to the operation of through routes, to fix the terms under which through routes shall be operated, and to fix the point of interchange of traffic as between carriers forming the through route. As previously stated, the east- and west-side lines maintain and operate through routes via the St. Louis gateway. By virtue of their joint ownership of the Association and their trackage rights over its rails, the routes of the east-side lines extend to St. Louis and those of the west-side lines to East St. Louis and consequently there is an overlapping of their routes between St. Louis and East St. Louis. In a real sense the question presented to the Commission was, In the operation of such an overlapping through route, what should be the point of interchange of the traffic, St. Louis or East

St. Louis? Would a reasonable rule or regulation with respect to the operation of such a through route require the east-side line to carry its traffic to the point of interchange with the west-side line in St. Louis, and, conversely, require the west-side line to carry its traffic to the point of interchange with the east-side line in East St. Louis?

As a matter of physical handling there have been two points of interchange, one in East St. Louis between the east-side line and the Association, the other in St. Louis between the Association and the west-side line, but East St. Louis has been considered the point of interchange as between the east- and west-side lines on through traffic in both directions because the west-side lines have borne the transfer charge on all such traffic. The west-side lines urged that under a reasonable rule or regulation with respect to the operation of the through routes the point of interchange of westbound traffic should be at St. Louis.

Under its power to fix the terms and conditions under which such a through route should be operated, the Commission would have authority to require that on westbound traffic the east-side line should take the traffic to the point of interchange with the west-side line in St. Louis. In effect, the order of the Commission requires this to be done; it requires that on westbound traffic the east-side carrier shall transport the traffic to the end of its line, St. Louis, and there interchange it with the west-

side line, or, what is equivalent, pay the transfer charge of the Association.[1]

The duty on the part of a common carrier, when it had received goods for transportation beyond the terminus of its line, to make delivery to the next succeeding carrier in the route, was recognized by the common law. *Myrick* v. *Michigan Central R. R. Co.*, 107 U. S. 102. The duty is now imposed by the Interstate Commerce Act. Under the decree in *United States* v. *St. Louis Terminal, supra,* the Association is enjoined from operating its properties otherwise than as terminal facilities for the railroads using the same—as their agent in performing the intermediate switching service in the terminal. When the east-side line delivers westbound traffic to the Association for transfer across the river, whether for delivery to a consignee in St. Louis or to a west-side carrier for further transportation, it engages the Association as its agent. *Missouri Pac.* v. *Reynolds-Davis,* 268 U. S., *supra.* In such case the only connection between the east-side line and the west-side line is in St. Louis. Therefore, it is the duty of the east-side line to make delivery to the west-side line in St. Louis, and it is its duty

[1] The fact that the through routes were already in existence by the voluntary act of the carriers, and that they were not established by the Commission, does not affect the power of the Commission to require reasonable rules and regulations with respect to the operation of them. *Central R. R. Co.* v. *United States*, 257 U. S. 247, 257–258; cf. *United States* v. *N. Y. Central R. R.*, 272 U. S. 457.

to pay its agent for the transfer service which it performs for it.

Of course, under section 15 (6) the Commission has power to fix the divisions of joint rates. Therefore, in respect of traffic moving on joint rates, it could, upon proper evidence, have fixed liability for the transfer charges by adjusting the divisions as between the east- and west-side lines. This it did not do, but confined its order to traffic moving on the Mississippi River combination. It would not seem to be a reasonable or logical construction of the Interstate Commerce Act that the Commission would have power to decide which of the two groups of carriers should bear the transfer expense in instances where the traffic moves on joint rates and would lack that power in instances where the traffic moves on combination rates. This court said plainly in *Terminal R. R. Assn.* v. *United States, supra,* that the Commission has power over the subject matter of the transfer charges under pars. (1), (3), and (6) of section 15. The Commission's power over divisions of joint rates, including the power to make an order, is complete under par. (6) of section 15. If the court had been referring only to divisions of joint rates, reference to pars. (1) and (3) of section 15 would have been surplusage. The language of the court is:

> "The Interstate Commerce Commission is authorized to establish through routes and joint rates and to prescribe the terms

> and conditions upon which such routes shall be operated and to fix divisions of such rates among carriers. Section 15 (1), (3), (6), Interstate Commerce Act." (*Ibid.* 31.)

On the same page, the court pointed out that the original decree did not purport to (1), regulate rates or (2) prescribe divisions of joint rates, or (3) fix liability for such transfer charges. "*On the other hand,*" the opinion continues, "it expressly provides that it shall not affect in any wise or at any time the power of the Commission over charges to be made by the Terminal Association or its subsidiaries, or any power conferred by law upon the Commission."

It seems that the language above quoted must be construed as saying that where joint rates are in effect the Commission can control the question as to what group of carriers shall bear the transfer expense by fixing the divisions of the joint rates under section 15 (6); and where combination rates are applicable, the Commission can control that question under section 15 (1) or (3) or (1) and (3).

II

The Order Is Supported By Substantial Evidence

We have hereinbefore referred to some of the important evidence adduced before the Commission. The evidence fully supports all the facts found by the Commission; and this is not denied. The evidence was ample to support the order.

Evidence required by section 15 (6) of the act in cases relating to divisions of joint rates was not necessary in this case because the order does not prescribe divisions of joint rates

Section 15(6) requires that in "prescribing and determining the divisions of joint rates," the Commission shall give due consideration to certain specified matters, such as the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, etc., " and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare, or charge."

Appellants assert there was no evidence upon these matters and therefore the order is void. But this provision has no application to the case at bar, because the order does not prescribe divisions of joint rates. The order has no reference to joint rates and no application whatever to traffic moving on joint rates. On the contrary, it unmistakably applies only to traffic moving on combination rates. These combination rates are through rates—that is, they are combinations of separately established rates applied to through transportation—but they are not *joint* rates. The distinction between joint rates, on the one hand, and through rates made by combining separately established rates, on the other hand, is clear, and has often been noted by this court. (St. *Louis S. W. Ry. Co.* v. *United States,* 245 U. S. 136, 139, note 2; *Central R. R. Co.* v. *United States,*

257 U. S. 247, 258; *Virginian Ry.* v. *United States,* 272 U. S. 658, 666.) If there were any doubt as to the meaning of the term "joint rates" as used in section 15(6), it could easily be resolved by reference to other provisions of the Act, especially section 6(1) which reads in part as follows:

> "That every common carrier subject to the provisions of this Act shall file with the Commission created by this Act and print and keep open to public inspection schedules showing all the rates, fares, and charges for transportation between different points on its own route and between points on its own route and points on the route of any other carrier by railroad, by pipe line, or by water when a through route and joint rate have been established. If no joint rate over the through route has been established, the several carriers in such through route shall file, print and keep open to public inspection as aforesaid, the separately established rates, fares, and charges applied to the through transportation."

It follows indubitably that section 15 (6) has reference only to *joint rates* and not to separately established rates applied to through transportation. The through rates in question being made on the Mississippi River combination, there is, of course, no occasion for and no possibility of the Commission fixing "divisions" of them as between the east-side and west-side carriers, for each necessarily receives its separately established rate to or

from the river. For these reasons, the absence of evidence upon the matters refered to in section 15 (6) would have no effect upon the validity of this order. Compare *New England Divisions Case,* 261 U. S. 184; *United States* v. *Abilene & So. Ry. Co.,* 265 U. S. 274; *Brimstone R. R. & Canal Co.* v. *United States,* — U. S. —, decided Feb. 20, 1928.

The reasonableness of the level of the rates was not in issue and absence of evidence relating thereto does not affect the validity of the order

It is further contended that there should have been a showing of the services performed by the east-side carriers as compared with those performed by the west-side carriers under their respective rates, including evidence of distances and the like. But such evidence would not have contributed to a decision of the issue presented, and was unnecessary as a matter of law, in view of the showing that the rates of both groups of carriers applied to both St. Louis and East St. Louis, and that, therefore, the rates of both groups of carriers included the transfer services. Stated differently, the rates of the east-side lines to St. Louis included the transportation service to St. Louis and delivery in St. Louis, and under those rates, when applied to local St. Louis traffic, the east-side lines paid and bore the transfer expense, that expense being included in their rates. Likewise, the rates of the west-side lines from East St. Louis included the transfer expense. Hence, in the case of through shipments moving on the St. Louis-East St. Louis

combination, the situation is presented of a two-factor combination, either factor of which, if applied separately, would include the transfer charge. In determining which carrier, under these circumstances, should pay the transfer charge, there would be no necessity of considering the measure of those rates. Raising or lowering the St. Louis-East St. Louis rates of either group of carriers would not affect the question at issue, i. e., which of the two groups of carriers should bear the transfer charges on through shipments.

Under these circumstances it was not necessary that the Commission have before it evidence bearing on the question of the reasonableness of the rates, and even if there was a total absence of such evidence, which we do not concede, the validity of this order would not be affected. The order, as previously explained, relates to the application of existing rates and does not raise or lower the level of those rates. If as a result of the Commission's requirement that they pay the transfer charges on westbound traffic, the revenues of the east-side lines should be impaired, they are at liberty to propose readjustments of their rates, subject of course, to review by the Commission.

The evidence shows, it may be added, that the east-side lines, as a group, are in a more prosperous financial condition than the west-side lines (Ex. 77), and therefore they are better able to bear the burden of these transfer charges, which burden is rightfully theirs, than the west-side lines.

CONCLUSION

We respectfully submit that the decree of the District Court should be affirmed.

J. STANLEY PAYNE,
For Interstate Commerce Commission.

P. J. FARRELL,
Of Counsel.

○

MAR 6 19

IN THE

Supreme Court of the United States

OCTOBER TERM, 1927.

No. 404.

The Baltimore & Ohio Railroad Company; William W. Wheelock and William G. Bierd, Receivers of the Chicago & Alton Railroad Company; Chicago & Eastern Illinois Railroad Company; The Cleveland, Cincinnati, Chicago & St. Louis Railway Company; Illinois Traction, Inc.; Illinois Central Railroad Company; Litchfield & Madison Railway Company; Louisville & Nashville Railroad Company; Mobile & Ohio Railroad Company; The New York, Chicago & St. Louis Railroad Company; the Pennsylvania Railroad Company; Southern Railroad Company, and Wabash Railway Company,

Appellants,

vs.

The United States of America, The Interstate Commerce Commission; The Chicago, Rock Island & Pacific Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri Pacific Railroad Company, and St. Louis-San Francisco Railway Company,

Appellees.

BRIEF FOR WESTERN CARRIERS, APPELLEES.

JOSEPH M. BAYSON,
W. F. DICKINSON,
EDWARD J. WHITE,
E. T. MILLER,
C. S. BURG,
WALLACE T. HUGHES,
H. H. LARIMORE,
M. G. ROBERTS,
Counsel for West-Side Lines, Appellees.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

TABLE OF CONTENTS.

Page

I.

Succinct and Accurate Summary of Salient Facts in Record and Résumé of Contentions of West and East-side Lines With Respect Thereto.... 1

II.

As the Terminal is a Jointly Owned Facility for Interchanging Traffic, Law Requires that Its Upkeep Should be Jointly Borne by East and West Side Lines 11

III.

Statute Empowers Commission to Order East-Side Lines to Make Proper and Lawful Delivery and to Participate in Burden and Expense of Interchange Without Considering or Adjudicating Rates and Divisions 29

IV.

Appellants Admitted Before this Court that Fundamental Question Involved Here is the Point of Interchange and that the Commission Has Power to Prescribe It 35

V.

Even Under Appellants' Theory Commission Had Jurisdiction to Promulgate the Order Because Their Sole Affirmative Defense and Their Evidence Related Exclusively to Rates and Divisions 37

VI.

This Court Did Not in Former Decision Decide that Remedy of Appellees was Under Provisions of Statute Relating to Rates and Divisions.... 43

Page

VII.

Order of Commission is Valid and is a Lawful Exercise of Power Even Though the Interchange Arrangements Condemned Did Not Constitute a "Practice" Within the Meaning of that Term as Used in the Act 49

VIII.

Conclusion 55

INDEX OF CASES.

Associated Jobbers of Los Angeles v. Atchison, T. & S. F. Ry. Co., 18 I. C. C. 310..... 32
Atchison, T. & S. F. Ry. Co. v. United States, 232 U. S. 199, l. c. 321..... 54
Business Men's League of St. Louis v. A. T. & S. F. Ry. Co., 44 I. C. C. 308, l. c. 311.....15, 55
Central R. Co. of N. J., et al., v. United States, et al., 257 U. S. 247, l. c. 257..... 54
Chicago Junction Case, 264 U. S. 258, l. c. 267.... 50
Chicago, M. & St. P. Ry. Co. v. Des Moines U. Ry. Co., 254 U. S. 196, l. c. 204.....25, 28, 56
Chicago, M. & St. P. Ry. Co. v. Minneapolis Civic Ass'n, 247 U. S. 490, l. c. 501..... 27
Chicago, R. I. & P. Ry. Co. v. Baltimore & O. R. Co., 113 I. C. C. 681..... 33
Class and Commodity Rates, 32 I. C. C. 471, l. c. 475 .....15, 55
Control of Subsidiaries by Terminal R. Ass'n, 99 I. C. C. 698..... 2
Interstate Commerce Commission v. Atchison, T. & S. F. Ry. Co., 234 U. S. 294..... 32
Louisville & Nashville R. Co. v. United States, 238 U. S. 1, l. c. 17 54
Manufacturers Ry. Co. v. St. L., I. M. & S. Ry. Co., 28 I. C. C. 93, l. c. 105.....14, 55
Myrick v. Michigan C. R. Co., 107 U. S. 102, l. c. 106 .....33, 52, 55

Page

National Wholesale Grocery Co. v. Dir. Gen., 62 I. C. C. 375, l. c. 402 32
New England Divisions Case, 261 U. S. 184; 62 I. C. C. 513; 85 I. C. C. 482 31
Northern Pacific v. Solum, 247 U. S. 477, l. c. 483 .. 54
113 I. C. C. 681, l. c. 682, 690 ..... 4, 49
Pennsylvania Co. v. United States, 236 U. S. 318 .. 54
Peoria & Pekin U. Ry. Co. Case, 115 I. C. C. 469 ... 27
Peoria & Pekin U. Ry. Co. Case, 93 I. C. C. 3, l. c. 9 ..... 23, 27
Postal Telegraph-Cable Co. v. Western Union Telegraph Co., 59 I. C. C. 512, l. c. 516 54
Richmond C. of C. v. Seaboard A. L. Ry. Co., 44 I. C. C. 455, l. c. 460 ..... 26, 51
St. Louis C. of C. v. Dir. Gen., 74 I. C. C. 308, l. c. 310 3
St. Louis Terminal Case, 34 I. C. C. 453, l. c. 456 .. 15, 55
State of Oklahoma v. State of Texas, 256 U. S. 70, l. c. 85 44
Swift & Co. v. Dir. Gen., 56 I. C. C. 309, l. c. 312 ... 14
Tap Line Cases, 234 U. S. 1, l. c. 29 50
10 Corpus Juris 534 ..... 33, 52, 55
Terminal R. Ass'n of St. L. v. United States, 266 U. S. 17, l. c. 27 ..... 20, 26, 35, 36, 43, 53, 56
Texas & Pacific Ry. Co. v. Reiss, 183 U. S. 621, l. c. 626 ..... 33, 52
United States v. St. Louis Terminal, 224 U. S. 383; 236 U. S. 194 ..... 14, 24
Vicksburg v. Henson, 231 U. S. 259, l. c. 269, 273 .. 43
Wharton Steel Co. v. Dir. Gen., 59 I. C. C. 11, l. c. 21 33
Whitaker-Glessner Co. v. Baltimore & O. R. Co., 63 I. C. C. 47, l. c. 56 33

IN THE

Supreme Court of the United States

OCTOBER TERM, 1927.

No. 404.

The Baltimore & Ohio Railroad Company; William W. Wheelock and William G. Bierd, Receivers of the Chicago & Alton Railroad Company; Chicago & Eastern Illinois Railroad Company; The Cleveland, Cincinnati, Chicago & St. Louis Railway Company; Illinois Traction, Inc.; Illinois Central Railroad Company; Litchfield & Madison Railway Company; Louisville & Nashville Railroad Company; Mobile & Ohio Railroad Company; The New York, Chicago & St. Louis Railroad Company; the Pennsylvania Railroad Company; Southern Railroad Company, and Wabash Railway Company,

Appellants,

vs.

The United States of America, The Interstate Commerce Commission; The Chicago, Rock Island & Pacific Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri Pacific Railroad Company, and St. Louis-San Francisco Railway Company,

Appellees.

BRIEF FOR WESTERN CARRIERS, APPELLEES.

I.

Succinct and Accurate Summary of Salient Facts in Record and Resume of Contentions of West and East-side Lines With Respect Thereto.

This brief is filed by the Appellees who were complainants in the proceeding before the Interstate Com-

merce Commission and they will be hereinafter referred to as the west side lines.

A tremendous amount of through trans-river traffic, carload as well as less-than-carload, is interchanged between the east and the west-side lines in the St. Louis-East St. Louis switching district; for the mileage of the carriers entering that gateway from all directions is 80,000, or about 30 per cent of the entire mileage in the United States (Ex. No. 4, p. 6).[1] The interchange facilities, therefore, provided (the Terminal Railroad Association of St. Louis and its subsidiary companies) are large, valuable and extremely expensive to maintain. The Terminal's[2] investment in road and equipment and improvements on leased properties in 1924 amounted to $45,463,369.45 (Ex. No. 80, p. 5). Its capital (stock and funded debt) amounted to $48,848,100.00. It operates 372.35 miles of track *solely in switching and terminal service* (Ex. No. 80, pp. 1, 7; Ex. No. 58, pp. 3, 13, 21). Its properties, including two bridges across the Mississippi River, are operated as one comprehensive terminal facility performing terminal and interchange service for the twenty-eight lines with which it connects. It has over 6,000 employees (Control of Subsidiaries by Terminal R. Ass'n, 99 I. C. C. 698). Its operating expenses for the year 1924 amounted to $9,096,413.70 (Ex. No. 80, p. 6) It interchanged with its connections during 1924 a total of 3,883,116 cars, or more than 10,000 cars a day. (Control of Subsidiaries by Terminal R. Ass'n, 99 I. C. C. 698.) The distance between St. Louis and East St. Louis across the Mississippi River is usually

[1] The exhibits referred to in this brief are those introduced in the hearing before the Interstate Commerce Commission or filed thereafter by agreement of parties.

[2] When we refer to the Terminal herein the subsidiary operating companies are included.

figured on a three-mile basis (St. Louis Chamber of Commerce v. Dir. Gen., 74 I. C. C. 308, l. c. 310). The through trans-river freight traffic involved herein is interchanged *in switching service* (Ex. No. 58, pp. 3, 13, 21).[3] Some of the less than-carload through traffic is interchanged by certain transfer companies (Ex. No. 52, pp. 1, 2).

Prior to the order of the Interstate Commerce Commission (Rec. 27-29), the four west side lines, Appellees herein, were exclusively saddled with the continuous duty of producing the large and heavy operating expenses (Rec. 288, lines 31-35) of the Terminal in interchanging this through trans-river traffic with their eastern road-haul connections. It involved an annual expense of approximately $3,000,000 to these *four* west side lines and the *thirteen* east side trunk lines *shared no part of the burden* and *bore no part of the expense.* Based upon a test period of 28 months on westbound, and 17 months on eastbound traffic, the *eastbound* through traffic constituted 71 per cent and the westbound traffic 29 per cent, of the total interchanged in *both* directions. The east side lines, therefore, receive about three times more traffic than they give to the west side lines. If the transfer charges, during *one year* embraced within the foregoing period,

[3]Under the decree of the United States District Court the Association was permitted to exist and continue "as a lawful unification of terminal facilities upon abandoning all operating methods and charges as and for railroad transportation and confining itself to the transaction of a terminal business such as supplying and operating facilities for the interchange of traffic between railroads and to assist in the collecting and distributing of traffic for the carrier companies, switching, storage and the like, and modifying its contracts as herein specified" (Ex. No. 50, p. 2). The proprietary companies were enjoined "from in anywise managing or conducting the said Terminal Railroad Association or any of its constituent companies and from operating any of the properties belonging to it or its constituents otherwise than as terminal facilities for the railroad companies using the same, and from making charges otherwise than for and according to the nature of the services so lawfully authorized to be rendered" (Ex. No. 50, p. 2).

had been borne by the east side lines on westbound traffic, and by the west side lines on eastbound traffic, the thirteen eastern carriers combined would only have paid $713,161.69, while the west side lines would have paid $1,746,016.55. These figures included carload but not l. c. l. traffic (113 I. C. C. 681, l. c. 682, 3rd Par.; Frisco's Ex. No. 52; Rock Island's Ex. No. 53; Missouri Pacific's Ex. No. 55; Katy's Ex. No. 56). However, the Commission's order involved here covers only that part of the westbound through traffic moving on a combination of locals and a subsequent order covering westbound traffic moving under joint rates undoubtedly largely depends upon the decision of this Court in this case (113 I. C. C. 681, l. c. 690, 3rd Par.); so that, as a result of this long-continued litigation, if the west side lines are accorded the legal redress to which they are entitled, and which they are asking for (the assumption of the burden of interchange by the *east* side lines on *westbound* traffic *only*) the four western roads will still be assuming the burden and expense of interchanging approximately 71 per cent of the total traffic, and the remaining 29 per cent of the total traffic will be borne by the thirteen east side trunk lines as they participate in the movement. The Appellants contend that they should not even b compelled to assume the burden and bear the expense of this comparatively small amount of the total, notwithstanding the fact that during the year 1924 their railway operating revenues and their net railway operating income averaged $32,593 and $4,944, respectively, per mile of road, while the same revenues and income for the four west side lines averaged only $16,900 and $2,826, respectively, per mile of road (Press' Ex. No. 77; Rec. 387).

Furthermore, the east side lines since 1906 have assumed the burden and expense of delivering traffic consigned to St. Louis *proper,* including all freight to industries on the rails of these west side lines in the St. Louis switching district, but from 1906 to the effective date of the order herein in 1926 they persistently refused to so deliver traffic consigned to points *beyond* St. Louis, although their rates on the traffic destined beyond St. Louis, are exactly the same as their rates on traffic consigned locally to St. Louis. In 1906 when the east side lines recognized St. Louis and East St. Louis as one community, entitled to the same rates and the same services of delivery and transfer, they increased their East St. Louis rates from 116 to 117 per cent, and applied the East St. Louis rates thus increased to St. Louis. From that time on, they absorbed the transfer charges on traffic consigned to or from St. Louis proper. However they applied *these increased rates* not only to the local traffic but also to the *traffic involved herein* and moving to points beyond St. Louis but refused to assume the same burden and expense of delivery with reference thereto that they assumed on local St. Louis traffic. No explanation whatever was made in the record by the east side lines as to why they applied the increased rates in 1906 to the traffic consigned to points beyond St. Louis which is many, many times more than the local St. Louis traffic, and then refused to perform thereon the same service that they did on freight for St. Louis proper. They continued to compel the west side lines to receive the traffic going beyond St. Louis at East St. Louis, notwithstanding the fact that their East St. Louis rates were increased. No law justified such action except the law that might makes right and the fact

that there are thirteen trunk lines on the east side and four trunk lines on the west side with equal representation on the board of directors of the Terminal Railroad Association. The eastern carriers have thereby perpetuated this unjust burden on the western carriers long after the *initial cause* which compelled the west side lines to absorb the charges in both directions *had lost all its force,* for in 1877 when the west side lines were forced through the compulsion of competition to meet the action of the Chicago and Alton by absorbing the transfer in both directions, the railroads themselves controlled the routing of traffic and there was no interchange and terminal facility serving both the *west* and the *east* banks of the River and jointly owned, controlled and used by the east and the west side lines with supposedly equal rights, benefits and burdens.

The rates of the east side lines to St. Louis—East St. Louis have received a series of increases since 1906 and they are today approximately and on the average *100 per cent higher* (Appendix A, *infra;* Exhibit No. 72), so that the volume and measure of their rates are, according to the undisputed data in this record, ample and adequate for them to participate reciprocally as the law requires them to do in the burden and expense of interchanging through traffic with their western road-haul connections.

The legal issues and contentions of the respective parties.

The ultimate legal question involved herein is whether the Commission has the power under the Act

(a) to adjudicate and order the *precise point of* interchange or *delivery* between road-haul carriers in handling through freight,

(b) to compel carriers to share and participate in the burden and expense of interchanging through road-haul traffic, and

(c) to order carriers to furnish the facilities for through routes on traffic destined to points beyond their own rails.

The Commission's order requires the east side lines to share in the burden and expense of interchanging such through traffic involved by compelling them to absorb the transfer or switching charges of the joint agencies in *one* direction *only* and thereby deliver westbound through traffic on the west bank of the river (St. Louis).

Appellants contend that this order is invalid because:

(a) The former method of interchanging and delivering through freight by which the west side lines assumed the burden and expense of interchanging and delivering in both directions, did not constitute a "practice" within the meaning of the Act, and

(b) That the Commission cannot either compel a carrier to make a lawful and proper delivery as a part of its road-haul duties, or participate in the burden and expense of interchanging through traffic upon which it enjoys road-haul revenue, unless the complainant also raises an issue as to

the level, measure or volume of the rates and divisions under which such traffic happens to move.

Appellees contend that these legal issues so raised are without merit because:

(a) The order of the Commission herein is a valid and lawful exercise of its power under those provisions of the act *which do not relate to practices*. It is, therefore, immaterial whether the interchange arrangements condemned and corrected, constitute a "practice" within the meaning of that term as used in certain *other* provisions of the act. The provisions of the Act not relating to practices relied upon by Appellees before the commission are hereinafter discussed. (Chapter VII, *infra.*)

(b) The Commission can compel a carrier to perform such *services* and incur such *expenses* as are a part and parcel of its road haul transportation duties under *existing* rates, such as making a *delivery* of through traffic to its road haul connections and participating *reciprocally* in the burden and expense of interchanging freight, without considering rates and divisions; because the obligation of a carrier under its line-haul rates *includes such services* and expenses, irrespective of the *measure, volume or level* of the *line-haul rates*. The carrier is thereby simply fulfilling the law's requirements as to *service* under *those rates*. (Chapter III, *infra.*)

(c) That the provisions of the Act relied upon by Appellees (paragraphs (3), (4), (6), (10), and (11) of Section 1, paragraphs (1) and (5) of

Section 3, and paragraphs (1) and (3) of Section 15 of the Act) may be enforced without a concurrent issue being raised under paragraph (6) of Section 15 of the Act relating to divisions; because the former are distinct, separable and independent of the provisions relating to rates and divisions. (Chapter III, *infra*.)

(d) That even if complainants before the Commission were required to raise an issue as to the level or measure of the rates and divisions in connection with the enforcement of duties that are inherently a part of a carrier's obligation under *existing* line-haul rates, maximum or minimum, to wit, proper and lawful delivery, the east side lines are foreclosed and estopped from raising such a question for the reason that they formally tendered in their answers before the Commission an issue as to rates and divisions as an affirmative defense to the complaint (Chapter V, *infra*).

Having thus attempted to state tersely the legal questions raised and the contention of the parties with reference thereto, we will now endeavor to briefly summarize the pertinent facts of record. Having in mind the issues as aforesaid, the relevancy of the facts hereinafter set forth will be readily grasped.

Force of competition compelled west side lines to assume burden of transfer in both directions without compensation therefor.

For many years after the entrance of railroads into St. Louis and East St. Louis, the shippers paid the river transfer charges on through and local traffic in

both directions (Ex. No. 5, p. 92). When the Chicago and Alton completed its line from East St. Louis to Kansas City, Missouri, over the Mississippi River at Louisiana, Missouri, in 1877, it accepted westbound traffic from, and delivered eastbound traffic to, the east-side lines at East St. Louis. In order to participate in the business, the west-side lines *were forced to take similar action.* They, in turn, accepted westbound traffic from, and delivered eastbound traffic to, the east-side lines at East St. Louis by absorbing the transfer or bridge charges on through trans-river traffic in both directions. When the west-side lines so assumed the burden and expense of performing the interchange service between the west and east bank of the river in both directions, they did so *without any increase* or inflation *in their rates* to compensate them for the additional service.

Said Mr. Maxwell, Vice-President of the Wabash, and a leading witness for the east-side lines (Rec. 274):

> "In 1877 when the Chicago & Alton completed its bridge at Louisiana, Missouri, it entered the traffic between St. Louis and the west via Louisiana, thus establishing *the St. Louis rates* between East St. Louis and points west of St. Louis, with the exception of a small portion of nearby territory west of the Mississippi River. All other western roads at St. Louis voluntarily met the action of the Chicago & Alton, and thus established between East St. Louis and all points west the St. Louis basis of rates, *which basis is still in effect.* * * * Conditions as to the western roads under which St. Louis rates were made voluntarily by them from East St. Louis have also remained *unchanged to this day.*"

Under the compulsion of competition, therefore, East St. Louis became the point of interchange between the two sets of carriers. It has continued to be the point of interchange on such through trans-river traffic to the effective date of the order of the Commission herein. It is this practice which the Appellees sought to have reformed because of the radically changed conditions at the St. Louis-East St. Louis terminal. Having become the point of interchange, it thereby became the rate-breaking point between the east and the west-side lines for which the west-side lines received no additional compensation, because they merely extended their rates to East St. Louis without any increase or inflation therein to cover the additional service. The west-side lines concede that as to eastbound through trans-river traffic the point of interchange of delivery should remain at East St. Louis because by virtue of their joint ownership and control of the Terminal, their rails terminate there. On the other hand, the west-side lines contend that the point of interchange as to the westbound through trans-river traffic should properly be at St. Louis, Missouri, where the rails of the east-side lines, by virtue of their control, ownership or use of the Terminal, terminate.

Radically changed conditions at St. Louis since west side lines first assumed burden of delivery in both directions.

When the practice of interchanging freight in both directions on the east bank of the river was initiated in 1877 and for many years thereafter, the east-side lines had no freight terminals in St. Louis; but in 1889 the first radical change in the relationship of the east and west-side lines took place when they jointly executed

a contract creating the Terminal Railroad Association. Through their ownership, control and perpetual right to the joint use of the bridges, rails and all other facilities of the Terminal, *the east-side lines then and thereby acquired freight terminals in St. Louis, Missouri.*[4] The Terminal was created and organized for the purpose of securing to all the railroads entering St. Louis and East St. Louis an efficient and economical method of interchanging passenger and freight traffic at the points named (Ex. No. 51, pp. 6, 28), and to furnish to all the proprietary and nonproprietary carriers adequate terminal facilities in St. Louis and East St. Louis (Ex. No. 51, pp. 15, 141). The Terminal is a cooperative enterprise (Ex. No. 4) owned and controlled, or used and enjoyed *jointly* by all of the east and west-side lines in common. Its fixed charges are guaranteed by all of the owners and they are pledged to make up any deficit in its operating expenses. The Terminal is the St. Louis terminal of all the east-side lines. Likewise, it is the east-side terminal of all the

[4] The contract of October 1, 1889, between the proprietary companies and the Terminal Association recites that the Association, at the instance and request of the proprietary companies had obtained the property of other terminal companies in both St. Louis and East St. Louis, "to the end that such properties may be held in perpetuity as a unit, and developed and improved in the interest of the proprietary companies for the purpose of furnishing adequate terminal facilities in St. Louis and East St. Louis; and, whereas, the several proprietary companies do now wish to secure in proper form and in perpetuity a right to use said terminal properties of the first party now held and hereafter to be acquired. Therefore, it is agreed between the parties as follows: In consideration of the covenants and payments hereinafter stipulated to be performed and paid by the proprietary companies, severally, but not jointly, the first party hereby grants to each of the proprietary companies, its successors and assigns, forever, a right of joint use with each other and with such other companies as may be admitted as proprietary lines to joint use thereof, of all said terminal properties of the first party now held or that may hereafter be acquired in St. Louis, Missouri, and East St. Louis, Illinois, including herein the St. Louis bridge and tunnel for passenger and freight, express and mail business and for interchange of the same between each other and with the public" (Ex. No. 51, pp. 14, 15).

west-side lines. Every trunk line carrier entering the St. Louis-East St. Louis switching district on either side is either a joint owner of, or uses, and has the perpetual right to use as an "appurtenant" to its own railroad, all of the rails and facilities of the Terminal in St. Louis as well as in East St. Louis for the interchange of freight traffic (Ex. No. 51, pp. 15, 80, 139-141; Ex. No. 50, pp. 5, 6).

Under the contract of 1889 between the east and the west-side lines creating the Terminal Railroad Association, as amended in 1914, (Ex. No. 51, pp. 136-145), all of the proprietary and using companies have the right in perpetuity to the joint use of all of the terminal facilities of the Terminal for the interchange of freight and passenger traffic "between each other" (Ex. No. 51, p. 15). The joint use so granted to all of the proprietary and using companies is to "remain as an appurtenant to the railroad" owned by each of the proprietary and using companies (Ex. No. 51, pp. 15, 80, 140, 141; Ex. No. 50, p. 6). The contract as amended also provides that every proprietary company shall have "equal rights of joint ownership and control of the combined terminal facilities of said Association upon such just and reasonable terms as shall place such applying company upon a *plane of equality* in respect of benefits and *burdens* of the parties hereto (Ex. No. 51, pp. 139, 141; Ex. No. 51, p. 5). The contract as amended further prescribes that any carrier not electing to become "a joint owner," but desiring the use of the terminal facilities of the Terminal, "may enjoy the use thereof upon such just and reasonable terms and regulations as will, in respect of use, character and cost of service, place it upon as nearly an equal plane as may be, with respect to expenses and

charges, as that occupied by the proprietary companies (Ex. No. 51, p. 140). The decree of the United States District Court entered pursuant to the decision of the United States Supreme Court in the Terminal Railroad case (224 U. S. 383, 236 U. S. 194) orders that all of the provisions of the decree shall extend to and embrace all railroad companies now or hereafter admitted to joint ownership or use of the facilities of the Terminal Railroad Association and to all its facilities present and future acquired (Ex. No. 50, p. 6). The amended contract entered into pursuant thereto further states that the benefits and burdens of the agreement shall inure to and rest upon all future proprietary and using companies, respectively (Ex. No. 51, p. 141). The Terminal, therefore, is today the St. Louis terminal of all of the east-side lines (Ex. No. 4, p. 21). Its rails are "properly regarded as the individual terminals of each of the *constituent lines*" (Swift & Co. v. Dir. Gen., 56 I. C. C. 309, l. c. 312). The Terminal "constitutes the united terminals of all the trunk lines entering the city" (Manufacturers Ry. Co. v. St. L. I. M. & S. Ry. Co., 28 I. C. C. 93, l. c. 105).

Rates of east side lines on traffic involved herein raised when they entered St. Louis.

Another radical change in the relationship of the east and the west-side lines with respect to the St. Louis-East St. Louis terminals took place in 1905 and ending in 1908, when the east-side lines publicly recognized that their rails *for all purposes* (except that of interchanging through trans-river traffic) reached St. Louis, Missouri. Although the east-side lines acquired freight terminals in St. Louis, Missouri, through

their ownership, control and perpetual right to the use of the facilities of the Terminal in 1889, they clung tenaciously for years thereafter to the fiction that they had no such terminals and that their rails and terminals ended at East St. Louis. For sixteen years they pretended not to see what everybody else saw. Finally, in 1905, they capitulated. Up to that time they contended they had no terminals west of the river, and, therefore, refused to deliver traffic destined locally to St. Louis by absorbing or paying the switching charge of the Terminal (Rec., p. 38). Having in 1905 recognized St. Louis as a station on their lines for the acceptance and delivery of local traffic, the east-side lines "laid themselves under the obligation of receiving traffic for through movements to and from that point (St. Louis) under through bills of lading" (St. Louis Terminal Case, 34 I. C. C. 453, l. c. 456). St. Louis and East St. Louis were, therefore, placed upon the same basis with the same rates from trunk line territory (Class and Commodity Rates, 32 I. C. C. 471, l. c. 475). Incidentally, when they recognized their duty to accept local outbound traffic at St. Louis and to deliver local inbound traffic at St. Louis, they raised their rates to East St. Louis to the 117 per cent basis (Rec., p. 342) and applied the same basis of rates to St. Louis. In addition they also applied and do now apply the *increased East St. Louis rates to the relatively greater amount of traffic involved herein*, that is, traffic destined to and from points beyond St. Louis (Rec., pp. 367, 342; Ex. No. 49, p. 56).

Concerning the effect of the foregoing adjustment, this Commission said (Business Men's League of St. Louis v. A. T. & S. F. Ry., 44 I. C. C. 308, l. c. 311):

> "By this readjustment St. Louis, Missouri, East St. Louis, Madison and Granite City, Illinois, were treated as one community."

Concerning its effect, we also quote from an exhibit introduced by Mr. W. C. Maxwell, vice-president of the Wabash and one of the witnesses for the eastern lines herein (Ex. No. 59, p. 23):

> "This adjustment means that, so far as freight traffic is concerned, East St. Louis, Madison and Granite City will be merely divisions of St. Louis, just as North St. Louis, South St. Louis and Carondelet are divisions of St. Louis. It means that St. Louis will be the freight rate basing point, not only for business between the East, but *between the East and most of the vast territory west of the Mississippi River*" (Fourth Report of Municipal Bridge and Terminal Commission).

By reason of the readjustment described in the foregoing paragraph, we have this wholly unjustifiable situation at St. Louis-East St. Louis today:

The east-side lines furnish the facilities for and operate through routes to and from St. Louis, Missouri, on local traffic, but they refuse to furnish the facilities for and to operate through routes to St. Louis on traffic destined beyond, although their rates to the two towns are exactly alike. They will deliver the traffic consigned to a shipper at St. Louis by absorbing the transfer charges; but on traffic consigned to a point *beyond* St. Louis, they deliver it to the west-side lines at East St. Louis. They give and perform *less service* on traffic to a point *beyond* St. Louis than they do on traffic consigned to and delivered at St. Louis under exactly the same rates. It is the conten-

tion of the west-side lines that they should make the *same delivery* to the west-side lines at St. Louis that they make to the shippers at St. Louis; for their compensation in both cases is alike.

Admissions of executives of east side lines that present practice is unfair.

Immediately after this readjustment in 1905 the west-side carriers requested the east-side lines to readjust the interchange of through traffic (Rec., p. 393-405). In response to the changed situation, a traffic executive of one of the eastern lines (Mr. George H. Ross, vice-president and general traffic manager of the Toledo, St. Louis & Western R. R. Co., now a part of The New York, Chicago and St. Louis R. R. Co., one of the appellants herein), wrote to Mr. W. B. Biddle, third vice-president of the Rock Island System, the following letter in which he stated that, in his opinion, it would be "eminently fair" for the receiving line to absorb the bridge charges on through traffic routed via the St. Louis gateway in either direction (Ex. No. 9):

"Toledo, St. Louis & Western Railroad Company.

Toledo, Ohio, December 13, 1905.

"Mr. W. B. Biddle,

Third Vice-President, Rock Island System,
Chicago.

"Dear Sir:

"I enclose herewith a memorandum in regard to carrying out an understanding with the Municipal Bridge and Terminal Commission of St. Louis in relation to bridge tolls at St. Louis on St. Louis traffic, in which you will note it was recommended

that St. Louis rates be made as per the figures stated in the memorandum attached.

"I beg to advise that at a meeting held today by the Central Freight Association lines the subject matter was fully approved and a committee was instituted to take the matter up with the Trunk Lines, New England lines and the Canadian lines, and get their concurrence; in all probability, the subject will go through as stated in the memorandum.

"This now brings to my mind very prominently the question of absorption of bridge tolls on *through* traffic; as, for instance, traffic from Missouri River points destined to any point on our line of road, or, so far as that is concerned, to any Eastern point, Trunk Line, New England, Canadian or Central Freight Association.

"There should be, in my opinion, some understanding existing as between the lines west of St. Louis and the lines east of St. Louis on through traffic routed via the St. Louis gateway in either direction; as, for instance, any traffic that the Clover Leaf Road delivers to your line, through the Terminal Association, your line would absorb the bridge tolls as published, and, in a like manner, any traffic which your line delivers to the Clover Leaf, we would absorb the bridge charges.

"*This seems to me to be fair, and* furthermore, it seems to me of necessity to have an understanding, and I would like very much to have you bring this matter up in the proper way before the Western Trunk Line Committee, so that the subject may reach the constituted committee of the Eastern roads, *i.e.*, the Central Freight Association.

"You understand that at the present time the Western roads absorb the bridge tolls in both directions; this by reason of their making rates to and from St. Louis and East St. Louis the same, and I assume that you would like to get out of some of this disability in the manner stated by me,

which appears, by studying into the situation, to be eminently fair.

"Will you kindly favor me with your views in this matter and if you are disposed to take the matter up in the manner suggested by me?

Yours truly,

(Signed) GEO. H. ROSS,
2nd V. P. & G. T. M.

Copy to

J. W. BLABON, F. T. M., C. & A. Ry.
D. MILLER, 1st V. P., C. B. & Q. Ry. Co."

The Chicago, Burlington & Quincy Railway Company also operates a line on the east side of the river. On April 7, 1908, Mr. George H. Crosby, freight traffic manager of that railroad, wrote, in part, to Mr. W. B. Biddle, vice-president of the Frisco Lines, as follows (Ex. No. 5):

"I think this whole question of transfer between St. Louis and East St. Louis should be disposed of on an equitable basis. As the matter stands today the western line pays the transfer on *both* eastern and western business, *which is manifestly unfair,* and we are ready to cooperate with the other interested lines in bringing about a reformation in this respect."

At a meeting of the representatives of the east and west side lines, held at St. Louis on June 25, 1908, the following recommendation was unanimously adopted (Mr. Maxwell's Ex. No. 59, p. 34):

"Recommended, That a subcommittee of three be appointed by the east-side lines to confer with a similar committee to be appointed by the west-side

> lines, to recommend a method of settlement of the question of disposition of, or dividing the bridge toll and switching between St. Louis and East St. Louis on through traffic moving in either direction via East St. Louis to and from points, both of which are outside of the limits of St. Louis and East St. Louis. Said joint committee to report to an adjourned meeting of this general committee as soon as possible."

At a meeting of the representatives of all the east and west-side lines, held on September 28, 1914, the following resolution was submitted by representatives of the western lines:

> "In order that the cost of interchange between eastern and western lines at St. Louis and East St. Louis may be equitably divided, it is agreed by the parties here represented that on and after this date the expense of bridge and ferry tolls, or charges, of other transportation companies, between St. Louis and East St. Louis, shall be paid by the line receiving the traffic."

Upon a vote the resolution was defeated, five votes being cast in favor of, and twelve opposed to, its passage (Mr. Maxwell's Ex. No. 59, p. 39).

The futile and persistent efforts of the west-side lines during the last twenty years to change the existing practice of interchange and to require the east-side lines to bear a fair share of the burdens thereof, is graphically described in the record (Ex. No. 5). The controversy was carried to the courts where it remained for several years. (Terminal Railroad Association v. United States, 266 U. S. 117.)

Today the east-side lines interchange passengers with the west-side lines at St. Louis. They inter-

change mail with the west-side lines at St. Louis. They interchange express traffic with the west-side lines at St. Louis (Rec., 200-202).

Carriers generally recognize obligation to participate in expense and burden of interchange.

The record further shows that under the generally recognized custom and obligation among carriers pursuant to the code of car-service rules published by the American Railway Association, the *delivering line assumes the burden of making delivery* in the yard of and on the designated tracks therein for the receipted traffic of the receiving line either by direct delivery with the power of the delivering line, or by using an intermediate switching line to act as its agent in effecting delivery of the through shipments (Rec., pp. 227). The following testimony before the Commission was not denied or contradicted by the defendants (Rec., pp. 220-228):

> "With regard to general practices of interchange:
>
> "The general practices among carriers with regard to the interchange of traffic are, in principle:
>
> "(a) Road-haul carrier effects delivery to consignee at destination, assuming cost of terminal expense incident to such delivery;
>
> "(b) Outbound road-haul carrier assumes terminal expense of terminal switching line and intermediate switching line incident to effecting delivery to its line of shipments on which the outbound road-haul carrier secures the road haul;
>
> "(c) Road-haul carrier, inbound, *effects delivery of through shipments to outbound carrier,* either with its own power or through the agency of an intermediate switching line, where such intermediate line is necessary; assumes per diem expense of intermediate line; insures the through movement

of the shipment or assumes responsibility of placing the car and shipment in proper condition for movement by outbound carrier.

"While there are at different junctions certain local agreements which deviate from the general principle outlined herein, it is the general practice to insure the expense of interchange of traffic being effected on a reciprocal basis, each line so interchanging traffic to bear an equitable share of the cost of interchange."

Practice approved by Commission here in effect throughout the United States.

The record further shows without any evidence to the contrary, that all line-haul carriers throughout the United States reciprocally bear and share the cost and expense of interchanging through traffic, whether that interchange is made *direct* or *through the medium of switching lines or service* (Rec., pp. 227). The transcript is replete with hundreds of illustrations in the East, South and West. To support and show the truth and correctness of the foregoing statement, the witnesses described in detail the method and manner of interchanging through traffic at the following major junction points:

Dubuque, Iowa	Bridge Junction, Ark.
East Dubuque, Ill.	Helena, Ark.
Savannah, Ill.	Vicksburg, Miss.
Clinton, Iowa	Natchez, Miss.
Rock Island, Ill.	Vidalia, La.
Burlington, Iowa	Baton Rouge, La.
Ft. Madison, Iowa	Anchorage, La.
Hamilton, Ill.	New Orleans, La.
Quincy, Ill.	Paducah, Ky.
Hannibal, Mo.	Evansville, Ind.
Louisiana, Mo.	Jeffersonville, Ind.
Chaffee, Mo.	New Albany, Ind.
Memphis, Tenn.	Louisville, Ky.

Cincinnati, Ohio
Detroit, Mich.
Toledo, Ohio
Cleveland, Ohio
Columbus, Ohio
Ft. Wayne, Ind.
Springfield, Ill.
East St. Louis, Ill. (not trans-river traffic)
St. Louis, Mo. (not trans-river traffic)
Chicago, Ill.
Kansas City, Mo.
Omaha, Nebr.
South Omaha, Nebr.
Wichita, Kansas
Ft. Worth, Texas
St. Paul-Minneapolis, Minn.
Des Moines, Iowa
Moline, Ill.
Indianapolis, Ind.
Oklahoma City, Okla.
Dallas, Texas
San Antonio, Texas

The Court will observe that the foregoing list of junction points described in the record includes all the Mississippi River crossings from Dubuque, Ia., to New Orleans, La. (Rec., pp. 377-386). At none of these crosings do the carriers maintain a joint facility serving *both* banks of the river except at Natchez, Miss., where a ferry is used to make the interchange. The expense of interchange at Natchez is reciprocally borne by the east and the west side lines (Rec., pp. 381-382). However, wherever traffic is interchanged between trunk lines at these and all other junction points mentioned, the burden and expense of interchange is on a reciprocal basis (Stanage's testimony, Rec., pp. 86-200; pp. 377-386).

The transcript of the testimony before the Commission fully supports the finding of the Commission on this same question in another case (In re Practices of Peoria & Pekin Union Ry. Co., 93 I. C. C. 3, 1. c. 9):

> "In the interchange of traffic between carriers it is the ordinarily accepted practice for the receiving line to designate tracks within a reasonable distance of the intersection of its rails with

those of a connecting carrier where cars will be received from the delivering line, *and the latter places the cars on the tracks so designated.*"

East-side lines admit Terminal is their agent in performing switching service on westbound through traffic.

The record further shows that the east-side lines concede that the Terminal Railroad Association *is their agent* in performing the interchange switching on westbound through traffic. In performing the service, the Terminal does not act as a road-haul carrier. The traffic is interchanged *in switching service* (Ex. No. 58, pp. 3, 13, 21).[5] Although it is a common carrier, it can only operate as a terminal and interchange facility for the east and west-side lines (United States v. St. Louis Terminal, 224 U. S. 383, 236 U. S. 194). The east-side lines recognize that the Terminal is their agent in delivering west-bound through traffic, because for each car handled they reimburse the Terminal for its per diem charges and expenses (Rec., p. 241). Rule Five of the Code of Per Diem Rules of the American Railway Association provides (Rec., p. 241):

[5] Under the decree of the United States District Court the Terminal was permitted to exist and continue "as a lawful unification of terminal facilities upon abandoning all operating methods and charges as and for railroad transportation and confining itself to the transaction of a terminal business such as supplying and operating facilities for the interchange of traffic between railroads and to assist in the collecting and distributing of traffic for the carrier companies, switching, storage and the like, and modifying its contracts as herein specified" (Ex. No. 50, p. 2). The proprietary companies were enjoined "from in anywise managing or conducting the said Terminal Railroad Association or any of its constituent companies and from operating any of the properties belonging to it or its constituents otherwise than as terminal facilities for the railroad companies using the same, and from making charges otherwise than for and according to the nature of the services so lawfully authorized to be rendered" (Ex. No. 50, p. 2).

> "An amount for each car *in switching service* may be reclaimed by each individual switching road from the road for which the service was performed."

No such reclaims are made when the cars are handled in *road-haul service*. The east-side lines pay these reclaims on westbound traffic. It is the contention of the west-side lines, therefore, that the east-side lines should assume *all* of the expenses incident to a proper and lawful delivery on their rails by absorbing not only the Terminal's per diem charges, but its switching charges as well. The ordinary principles of law governing the relationship of principal and agent should be applied. When an agent performs a service for its principal the latter is liable and must pay. A third person should not be compelled to make a vicarious sacrifice for him.

II

As the Terminal is a Jointly Owned Facility for Interchanging Traffic, Law Requires That Its Upkeep Should be Jointly Borne by East and West Side Lines.

As the Terminal Railroad Association is a joint facility of the east and west side lines owned, or used and enjoyed, by all of them in common, for the interchange of freight in both directions, the law requires that its corporate powers be exercised for the common benefit of *all* of its stockholders (Chicago, M. & St. P. Ry. Co. v. Des Moines U. Ry. Co., 254 U. S. 196, 1. c. 204). Prior to the order herein, the east side lines enjoyed the benefits of their joint facility and participated in *none* of the burdens incident to

the handling of this traffic; for the west side lines paid and bore the *entire* cost of interchanging the traffic. While it is true that the Terminal published a charge for performing this switching service, the owning carriers who happened to be on the west side contributed exclusively to the expenses of operation by absorbing these charges. This absorption of switching charges was and is simply a financial method of *prorating the cost* of the Terminal's maintenance and operation (Richmond C. of C. v. Seaboard A. L. Ry. Co., 44 I. C. C. 455, 1. c. 460); but the court will observe that the east side lines under the method of "prorating the cost" condemned by the Commission, enjoyed the benefit and use of this facility *without the expenditure of a single penny* for the maintenance and upkeep involved in the transfer of this traffic.

If this were initially a court proceeding, it could well be denominated a bill in equity by minority stockholders to compel the majority stockholders to participate in the common burden of maintaining a joint subsidiary owned and used "for the common benefit of all the stockholders"; but as this court has held (Terminal Railroad Association v. United States, 266 U. S. 17) that the procedure for compelling them to so share in the burden of maintenance and upkeep, is within the jurisdiction of the Commission, the west-side lines pursued their only legal means of redress. Having previously taken the position that the controversy involved matters exclusively for the Commission, the east-side lines now take the position that the order herein involved is beyond the power of the Commission. The Commission made the *only order* that *it could have made* in the premises *to compel the appellants to share in the upkeep of the joint property.*

Appellants contend that the order is contrary to the decision in the Peoria & Pekin Union Railway Company case, 115 I. C. C. 469; 93 I. C. C. 3, in that the Commission in that case compelled one set of carriers to "bear the charges of the intermediate switching line in both directions" (Appellant's brief, p. 79, lines 1-3). It is true that the Commission in that case required the *east* side lines to bear the charges of the intermediate switching line in *both* directions, but the switching facility used, the Peoria & Pekin Union Railway, *was owned exclusively by three east side lines* at Peoria. It was *their* switching facility and it was *not* owned *jointly* by the east and west side lines at Peoria. In this case the Terminal Railroad Association is owned jointly by the east and west side lines with supposedly equal rights, privileges, benefits and burdens. The distinction *in facts* reveals the Commission's consistency in judgment. In both cases it applied the principle that a purely arbitrary fiction (Chicago, M. & St. P. Ry. Co. v. Minneapolis Civic Ass'n, 247 U. S. 490, 1. c. 501) should not be allowed to obscure the actual individual facts nor to serve as an instrument for injustice.

The Terminal is a cooperative enterprise (Jonah's Ex. No. 4, p. 19) of the east and the west side lines. Its fixed charges are guaranteed by *all* the owners, and they are pledged to make up any deficit in its operating expenses. As stated by Mr. Maxwell, the leading witness for the eastern lines, the moneys paid to the Terminal are treated *as expenses* and not as revenues (Rec., 288); because practically all of its income is derived from the road-haul carriers by way of switching absorptions. Its upkeep should, therefore, be equitably prorated among the trunk lines.

The operating contracts as amended in 1914 under the provisions of which the Terminal was permitted by this court to continue its existence as a lawful entity (Ex. No. 51, pp. 14, 136) prescribes that every owner thereof in the interchange of freight traffic shall be placed *upon a plane* of equality in respect of benefits and *burdens* (Ex. No. 51, p. 139); that every nonproprietary company shall enjoy and use the rails and facilities thereof upon an equal plane with respect to expenses and charges (Ex. No. 51, p. 140); that the expenses incident to the maintenance and operation of the property *shall be distributed as equitably as possible* (Ex. No. 51, p. 19); that the bridge tolls levied shall at no time be so great as to place any company using said terminal at a disadvantage (Ex. No. 51, p. 23); that the Terminal Railroad Association shall not discriminate in any manner whatever in favor of any company (Ex. No. 51, p. 4), and that each of the owning and using companies shall have equal facilities and accommodations with any other companies (Ex. No. 51, p. 24).

In Chicago, M. & St. P. Ry. Co. v. Des Moines U. Ry. Co., 254 U. S. 196, 1. c. 204, this court considered the relationship of the railroads involved to a terminal company. The terminal company had the title to the properties and entered into operating contracts with the railroad companies. Afterwards the terminal company asserted that it was the absolute owner of the terminal properties, and that the railroad companies were merely stockholders in the usual and customary sense; that the terminal was entitled to its surplus earnings, and that the railroads as stockholders of the terminal company, should not be permitted to deny the absolute ownership of the properties stand-

ing in the name of the terminal company. It was the contention of the railroad companies that the terminal company was merely an instrumentality or trustee of the proprietary companies, and that they were the owners of the equitable title to such properties. This Court said:

> "Upon a review of all the evidence, construing the writings in the light of the circumstances and the manifest purpose and intent of the parties, we are clear that the effect of the transactions thus far recounted was to establish a terminal company, being invested as trustee with complete legal title, but without beneficial ownership, and *subject to a duty to maintain and operate* the property and exercise all its corporate powers *for the common use and benefit* of the three railroad companies, their successors and assigns, and such other companies as might be admitted by them to a proprietary participation in the terminal."

The Commission's order herein prescribing the manner and method of interchanging through freight, is but a fulfillment of the law's requirement that joint owners of a subsidiary corporation maintained for their common benefit shall participate jointly also in the burdens of maintenance.

III

Statute Empowers Commission to Order East-Side Lines to Make Proper and Lawful Delivery and to Participate in Burden and Expense of Interchange Without Considering or Adjudicating Rates and Divisions.

Before the Commission the Appellees, as complainants therein, invoked the powers of the Commission

under paragraphs (3), (4), (6), (10) and (11) of Section 1; paragraphs (1) and (3) of Section 3; and paragraphs (1) and (3) of Section 15 of the Act. These provisions may be enforced without a concurrent issue being raised under paragraph (6) of Section 15 of the Act relating to divisions, or other provisions relating to rates; because the former are distinct, separable and independent of the provisions relating to rates and divisions. The Commission may *compel obedience thereto without examining rates and divisions.* If Appellants' interpretation of the law were approved, it would amount to a judicial amendment to the provisions of the Act relied upon by Appellees. Appellants are seeking to engraft by judicial construction an amendment to paragraphs (3), (4), (6), (10), and (11) of Section 1, paragraphs (1) and (3) of Section 3, and paragraphs (1) and (3) of Section 15 of the Act, which would read about as follows:

> "Provided that the Commission shall be without jurisdiction to enforce the foregoing provisions or to make any orders thereunder, unless and until it simultaneously and concurrently investigates, considers and/or prescribes divisions under paragraph (6) of Section 15 and rates under other provisions of the Act."

Under the Appellants' interpretation of the law, paragraph 3 of Section 3 of the Act would read, for example, with the following amendment shown in italics attached thereto:

> "All carriers, engaged in the transportation of passengers or property, subject to the provisions of this Act, shall, according to their respective powers, afford all reasonable, proper, and equal

facilities for the interchange of traffic between their respective lines; * * * *provided, however, that the Commission must simultaneously and concurrently investigate, consider and/or prescribe the road-haul divisions or rates of the several carriers affected.*"

Appellants make the startling contention that the Commission may not issue any *service orders* relating to proper interchange facilities (paragraph 3 of Section Three), delivery or transfer in transit (paragraphs 3 and 4 of Section One), exchange and interchange of cars (paragraphs 10 and 11 of Section One), terms and conditions under which through routes shall be operated (paragraph 3 of Section Fifteen), matters relating to transporting and delivery of property (paragraph 6 of Section One), and unreasonable and discriminatory practices (paragraph 1 of Section Fifteen), unless and until the rates, and divisions of rates, between all territories on the traffic *moving through the point involved,* are concurrently and simultaneously considered and adjudicated. Stated differently, they contend that when the Commission orders the carriers to cure a *local* practice involving the burden and expense of switching interchange, it must at the same time investigate the rates, and divisions of rates, on all through traffic between stations on the 80,000 miles of railroad operated by the carriers entering the St. Louis-East St. Louis gateway. If their contentions are correct, the Commission must have before it, in order to solve the *purely local* controversy involved here, a rate and division case which must of necessity greatly exceed in magnitude and breadth the New England Divisions Case, 261 U. S. 184, 62 I. C. C. 513, 85 I. C. C. 482. A mere statement of Appellants' con-

tention ought to be sufficient to show its absurdity.

The fundamental errors in Appellants' argument are that

(a) They pretend not to see the distinction between revenues and rates, on the one hand, and the services and expenses, on the other, which a carrier must, under the law, perform or assume as a part of its road-haul obligations in the transportation of freight, as for example making a lawful delivery of through traffic at the end of its line, and

(b) They deliberately ignore the major question involved herein, to wit, the relative duties and rights of road-haul carriers, with respect to the *reciprocal* burdens and expenses of interchanging through traffic in each direction by either direct delivery, or through the medium of a joint switching agency.

Under its road-haul transportation duties, a carrier must perform certain services and incur certain expenses. These are a part and parcel of its obligations under line-haul rates *irrespective of their measure, volume or level.* It must place the car at the point of origin at a proper place for loading (Rec., 227). It must pay per diem charges on foreign cars (Rec., 227). It must frequently absorb switching charges at terminals (Rec., 227). If the freight goes to an industrial track on its line, it must make a proper and lawful delivery to the shipper at its own expense. (Interstate Commerce Commission v. Atchison, T. & S. F. Ry. Co., 234 U. S. 294; Associated Jobbers of Los Angeles v. Atchison, T. & S. F. Ry. Co., 18 I. C. C. 310; National Wholesale Grocery Co. v. Dir. Genl., 62 I. C. C. 375, l. c. 402). It must participate in the burden and expense of interchange switching as that is a transportation service incident to the line-haul (Whitaker-

Glessner Co. v. Baltimore & O. R. Co., 63 I. C. C. 47, l. c. 56). If the freight goes *beyond* its own line, it must make a delivery on the rails of the connecting carrier *at its own expense*. Such is the law of the land. 10 Corpus Juris 534; Myrick v. Michigan C. R. Co., 107 U. S. 102, l. c. 106; Texas & Pacific Ry. Co. v. Reiss, 183 U. S. 621, l. c. 626; Wharton Steel Co. v. Dir. Genl., 59 I. C. C. 11, l. c. 21. Where goods are to be transported to a point *beyond* a terminus of the initial carrier, it is the duty of such carrier to *deliver* the goods *to the connecting carrier*, to be forwarded on its line. 10 Corpus Juris 534, and cases cited. There is a generally recognized obligation on the part of all carriers on through traffic "to make delivery on the rails of their connections, either direct or by bearing charges of the intermediate switching line, and this is the general practice of railroads throughout the country." (Chicago, R. I. & P. Ry. Co., *et al.*, v. Baltimore & O. R. Co., 113 I. C. C. 681, the report in this case.)

It is true that the Appellants will hereafter be compelled to perform more *service*, but that service constitutes only a legal requirement under the *existing* revenues, to wit, a proper and lawful delivery and a participation in the expense of interchange. The Appellants will then be complying with the mandate of the Interstate Commerce law, which requires that all carriers in the transportation of property shall afford reasonable, proper and equal facilities for the interchange of traffic between their respective lines (paragraph 3, Section Three of the Act). *Their rates will not be affected.* They will simply be *fulfilling the law's requirement as to service under those rates.* The Commission orders the Appellants to perform a service *incident to the line-haul*—a delivery of the traffic to

their connections by absorbing the transfer charges of their *own* agents. (Rec. 241)

The Commission has in numerous cases determined what constitutes a proper and lawful delivery as a part and parcel of a carrier's road-haul transportation duties under paragraphs (3) and (4) of Section 1 of the Act without concurrently investigating rates and divisions.

The Commission has in numerous cases promulgated "reasonable rules and regulations with respect to the operation of through routes" under paragraph (4) of Section 1 of the Act without fixing rates and divisions.

The Commission in numerous cases has determined whether any carrier is giving any undue and unreasonable preference to any particular description of traffic or "undue or unreasonable prejudice or disadvantage in any respect whatsoever" under paragraph (1) of Section 3 of the Act without concurrently prescribing rates and divisions.

The Commission has heretofore determined the question of whether carriers are affording "all reasonable, proper and equal facilities for the interchange of traffic" under paragraph (3) of Section 3 of the Act without at the same time prescribing rates and divisions.

The Commission has often determined and prescribed fair and reasonable practices to be thereafter followed by carriers under paragraph (1) of Section 15 of the Act, without simultaneously investigating and determining divisions.

The Commission has often established the terms and conditions under which through routes shall be operated under paragraph (3) of Section 15 of the Act without passing upon rates and divisions.

IV.

Appellants Admitted Before This Court That Fundamental Question Involved Here is the Point of Interchange and That the Commission Has Power to Prescribe it.

When the United States District Court fixed the liability for these transfer charges, and decreed that the east-side lines should bear the expense in one direction (See pertinent copy of decree, Terminal Railroad Association v. United States, 266 U. S. 17, 1. c. 27), the east-side lines took the position before this Court in the case cited that the District Court thereby attempted "to fix the point of interchange as to eastbound traffic in the western limits of St. Louis" (original brief, east-side lines, before this Court, pp. 43-44), and that such a controversy was plainly a question for the Commission. The decree was reversed. The substantive thing which the Commission ordered to be done in the proceeding below, is the absorption and payment of the transfer charges on westbound through traffic. It required the east-side lines to do *exactly* the thing that the District Court required them to do except that the order of the District Court related to the past and the order of the Commission relates to the future. The east-side lines in the former case admitted that the Commission had the exclusive power to fix the point of interchange and that the controversy between these two sets of carriers *involved, after all, only the point of interchange.* They took the position, as we do now, that the transfer charges are but *incidents* of the determination of that fundamental legal issue.

The following extract is from the original brief of the east-side lines before the Supreme Court in Ter-

minal Railroad Association v. United States, 266 U. S. 17 (pp. 43-44):

> "After all, it is at last only the question of what is the point of interchange. Traffic moving east and west through St. Louis is interchanged between east-side lines and west-side lines so there may be a continuous carriage. There must be some point established where there is an interchange of this traffic. Now, up to this time, and for forty years last past, by agreement of parties, this interchange has taken place at the east bank of the river. If this point of interchange is not fair, then it is *within the power* of the Interstate Commerce *Commission to fix another point of interchange.* But what the Court has here attempted to do *is to fix the point of interchange* as to westbound traffic in the western limits of St. Louis and of eastbound traffic at the east bank of the Mississippi River. We can find no authority whatever permitting a Court to do *this,* and we respectfully submit that it is entirely beyond the jurisdiction of a Court to do this until and unless application has been first made to the Interstate Commerce Commission and an order made by that Commission."

Again, in their reply brief before this Court in the same case, they said (p. 23):

> "We have a case, therefore, where there is a point of interchange both at East St. Louis and at St. Louis, and the question involved is: *Where is the reasonable point of interchange? Plainly, this is a question for the Commission.* If we assume that the Terminal Association is dissolved and all its property and facilities become the property of the proprietary lines as tenants in common, the question which the lower court assumed to decide would not be in any way simplified. East St. Louis

> would still be a point on the rails of the west-side lines because their ownership extends to East St. Louis. The east-side lines and the west-side lines would still have to settle the question as to whether the traffic should be interchanged at the one place on the lines of both or at the other place on the lines of both. Such a controversy could be settled only by considering elements with which the Interstate Commerce Commission, as an expert body, is alone qualified to deal."

While it is true that the east-side lines in their brief before the Court in the above case in showing that the Interstate Commerce Act has "given from time to time broad and still broader powers over the railroad systems," cited paragraph (6) of Section Fifteen of the Act relating to divisions, they also cited in part the provisions of the Act relied upon by Appellees herein, to-wit, paragraph (4) of Section One relating to providing reasonable facilities for operating through routes, paragraphs (10) and (11) of Section One, defining car service, and paragraph (3) of Section Three, of the Act, requiring carriers to provide all reasonable, proper and equal facilities for the interchange of traffic (Appellants' brief, pp. 27, 28; see also Chapter VI, *infra*).

V.

Even Under Appellants' Theory Commission Had Jurisdiction to Promulgate the Order Because Their Sole Affirmative Defense and Their Evidence Related Exclusively to Rates and Divisions.

The Appellees did not in their complaint before the Commission tender or raise an issue as to road-haul rates and divisions for the simple reason that *they*

were not asking for increased rates or divisions. Certainly no one could expect the complainants to file a complaint asking that the divisions of the east side lines be increased and that their own be reduced. The west side lines were contending that their eastern road-haul connections should perform the service of interchange in one direction under their *existing* rates and divisions, for the western lines had from the beginning performed this double interchange service *without any additional compensation therefor* (Chapter I, *supra;* Maxwell's testimony, Rec., p. 274), and, when the east side lines recognized St. Louis as a station on their lines by increasing their St. Louis-East St. Louis rates from 116 to 117 per cent (Rec., p. 342; Appellants' brief, p. 18), they *did then,* have *ever since* and *do now* apply those *increased* rates to the relatively greater amount of through *traffic covered by the order herein* (Witness Adams, Rec., p. 367; witness Nash, Rec., p. 342), and also since 1906 their rates to St. Louis-East St. Louis *have been increased on* the average of *about 100 per cent.* (Nash's Ex. No. 72, Rec., p. 616; Appendix A, *infra*). Mr. F. A. Adams, Assistant Freight Traffic Manager of the Rock Island Lines, testified, without contradiction, that the east side lines when they entered St. Louis and raised their rates from 116 to 117 per cent, *applied those increases on all through traffic* covered by the order herein. He said (Rec., p. 367):

> "At that time, and to a great extent now the territory affected was Missouri, Missouri river, Kansas, Nebraska, Colorado, Utah, Oklahoma, to which, of course the volume of the traffic is many, many times greater than to St. Louis. Although, as I have previously stated, it was a local adjust-

ment to St. Louis and East St. Louis, the eastern lines *got the benefit of that advance to all that vast territory,* and additionally, and as explained by Mr. Leland, in his testimony yesterday, prior to the 15 per cent advance case, through rates to Texas, Oklahoma, Arkansas and Louisiana were divided by allowing the lines east of East St. Louis *their full local rates,* so they also *received that increase* as a division of through rates, to points in the Southwest, and as also explained by Mr. Leland, I want to point out *that increase is reflected today in the divisions* of the eastern lines, regardless of the fact that such divisions are slightly less than the local rates."

On the other hand, if the Appellants believed that the west side lines were now being compensated for the interchange service under their rates and divisions or that their (the east side lines) rates and divisions were too low to enable them to perform the interchange service, it was essentially a matter of defense for them to plead it in their answer. In other words, if the Appellants believed that the divisions or rates should be changed by reason of a different practice as to interchange and delivery, that was essentially a matter of defense. By their pleadings before the Commission the *defendants recognized that the question of divisions was a matter of defense* to the complaint; for in their answer they formally tendered the issue of rates and divisions (Appellants' brief, p. 5). They are, therefore, foreclosed and estopped from claiming that such an issue should have been submitted by the Appellees; because, as issues are made up by considering the *answer* as well as the complaint, the Appellants *have had their day in court* on the question of rates and divisions insofar as they

affect these transfer charges. If their *evidence* failed to establish the *allegations* of the *answer*—and it did fail—the Appellees should not suffer.

If this Court should so construe the law as to prohibit the Commission from prescribing orders under the provisions of the Act invoked by Appellees before the Commission (paragraphs (3), (4), (6), (10) and (11) of Section 1; paragraphs (1) and (3) of Sectoin 3; and paragraphs (1) and (3) of Section 15 of the Act) without having before it concurrently a proper raised issue as to rates and divisions between all points on the lines of the carriers operating east and west from the point of interchange, *the east side lines supplied the omission.*

In their respective answers filed before the Commission the east side lines said:

> "Further answering, these defendants aver that the sole question in this case is as to the lawful measure of the amounts received by the east side lines and the west side lines, respectively, for their services in connection with through traffic moving through the St. Louis-East St. Louis gateway or West Alton, and that wherever the west-side lines bear the cost of the transfer charges across the river, said west side lines are fully compensated by the amounts received by them for their services in connection with such through traffic, and that if the amounts received by either the east side or west side lines are in any way unfair, unjust or inequitable, such unfairness, injustice and incquality arises because the west side lines receive greater amounts than they are fairly entitled to."

The foregoing is a plea in the nature of a confession and avoidance. It was their sole affirmative de-

fense in the case. The burden of proof was, therefore, upon the defendants (22 *Corpus Juris* 68). The evidence introduced by the *defendants* related exclusively to rates and divisions (Witness Sudborough, Rec., p. 253; Maxwell, Rec., p. 265; Furry, Rec., p. 297; Drescher, Rec., p. 316; and Decamp, Rec., p. 319). All of them were traffic officials of eastern lines and the record shows their evidence deals solely with rates and divisions. The complainants, without any objection from the defendants, on rebuttal, *squarely met the issue thus raised* in the answer. An abundancy of testimony was introduced with relation thereto (Rec., pp. 323-328; pp. 340-366; pp. 366-376; pp.. 387-388). Briefly summarized, the oral testimony and documentary evidence introduced by the complainants on rebuttal conclusively shows that although the west side lines bore the burden and expense of transfer in both directions they were neither "fully compensated" nor even partially compensated "by the amounts received by them for their services in connection with such through traffic."(See answer, *supra;* Witnesses Leland Rec., p. 328; Nash, Rec., p. 340; Adams, Rec., p. 366; and Haile, Rec., p. 323). Furthermore, the allegations of the answer that the west side lines were compensated out of their rates and divisions for the river transfer service was thoroughly exploded even from the lips of the leading witness for the defendants (Chapter I, *supra;* Maxwell's testimony, Rec., p. 274).

In its report herein the Commission said:

> "The history of both the combination rates and the divisions of the joint rates applicable to this traffic indicates that the transfer charge of the Association was given little or no consideration

> in the establishment of any of these rates or divisions. The fact is that, finding the opportunity there, *defendants took advantage of it* to require *complainants* to continue *to pay* the transfer charge, not only on *eastbound* traffic, but also on *westbound* traffic."

A joint committee of the east and west side lines, appointed at a meeting held on October 30, 1915, reported as follows:

> "Prior to the completion, in 1877, of the Chicago & Alton's bridge at Louisiana, Missouri, rates between points east and west of St. Louis-East St. Louis were made on the full combination of locals with the Mississippi River transfer charge added, the rates of the west-side lines applying to or from St. Louis and of the east-side lines from or to East St. Louis. With the completion of the Chicago & Alton bridge that line published the *St. Louis basis* of rates between *East St. Louis* and stations on its lines west of the Mississippi River, forcing the west side lines to take similar action and *absorb* the river transfer, as the through rates were necessarily based on East St. Louis, there being no rates published between St. Louis, Missouri, and points east of the Mississippi River." (Ex. No. 59, pp. 5, 6.)

The oral and documentary evidence in the record demonstrate beyond any question that the west side lines were and are not compensated by the rates and divisions for performing the interchange service between the east and the west bank of the river. It is true that this issue was not presented in the complaint for the reasons that, as heretofore stated, the western lines insisted that the eastern lines should perform the interchange service in one direction un-

der their *present* rates and divisions; but as the issue was raised by the defendants, the order herein is clearly valid even if the court holds that rates and divisions must be considered in connection with service orders pursuant to the statutory provisions relied upon by Appellees.

VI.

This Court Did Not in Former Decision Decide That Remedy of Appellees was Under Provisions of Statute Relating to Rates and Divisions.

Appellants contend that this Court in Terminal Railroad Association v. United States, 266 U. S. 17, decided that the remedy, if any, of the Appellees herein as complainants before the Interstate Commerce Commission is confined to those provisions of the Act relating to rates, in so far as traffic moving under the combination of locals is concerned, and to paragraph (6) of Section Fifteen of the Act, relating to divisions, in so far as traffic moving under joint through rates is concerned.

Ignoring for the present the fact that the Commission could not in a case involving the *measure* or *level* of rates and divisions, issue *service* orders, fix the point of interchange, compel defendants to perform a lawful delivery or participate in the burden of interchange, the question discussed in this chapter must be decided by an "examination of the issues made and intended to be submitted and what the decree was really designed to accomplish." (Vicksburg v. Henson, 231 U. S. 259, l. c. 269, 273).

It is elementary that "what was involved and determined in the former suit is to be tested by an ex-

amination of the record and proceedings therein including the *pleadings*, evidence submitted, the respective *contentions* of the parties, and the findings and opinion of the Court." (State of Oklahoma v. State of Texas, 256 U. S. 70, l. c. 85.)

An examination of (a) the record, or (b) the pleadings, and (c) of the respective contentions of the parties in that case as disclosed by the record before this Court clearly demonstrates that this Court did not pretend to decide just what sections of the Act the present practices at St. Louis-East St. Louis violated, nor under just what sections of the Act the west side lines should attempt to correct the practices. That issue was not decided. The controversy "distinctly put in issue and directly determined" by this Court in that case was whether the east side lines and the Terminal Railroad Association had violated the decree of the District Court (Ex. No. 50, inter alia) by failing to bear the transfer charges on westbound traffic. The Court held that the decree had not been violated and further held that the controversy was one for determination by the Interstate Commerce Commission in the first instance.

Appellants in that case did not contend that the sole remedy of the Appellees was under the provisions of the Act relating to rates and under paragraph (6) of Section fifteen of the Act relating to divisions. In urging that the controversy was a matter within the cognizance of the Interstate Commerce Commission, they cited in their briefs several sections of the Interstate Commerce Commission, including some of those relied upon by the Appellees herein. In addition to paragraph (6) of Section fifteen of the Act, they cited paragraphs (4), (10), and (11) of Section one and paragraph (3) of Section (3) and paragraph

(3) of Section fifteen of the Act (Appellants' brief therein, pages 28-29). The Court upheld their view and cited, among other provisions of the Act, paragraph (1) of Section fifteen, prohibiting *unlawful practices.* The question whether the controversy was one solely and exclusively under paragraph (6) of Section fifteen and other paragraphs relating to rates, was not therefore "distinctly put in issue" nor "directly tendered" in that case. This court left the Commission free to determine what *specific provisions* of the Act the present interchange arrangements violated, and it was at liberty to exercise its judgment upon all the facts before it, and the law applicable thereto, without being "cribbed. crabbined or confined" to the sections relating to rates and divisions.

Furthermore, an examination of the *pleadings* filed by the defendants in that case *disposes of the contention made here;* for they did not put in issue the question whether the remedy of the complainants was exclusively under paragraph (6) of Section fifteen of the Act, but whether the Commission had jurisdiction of the controversy under *any and all* of its powers under the Interstate Commerce Act. We quote in part from the answer of the east side lines filed before the Supreme Court (printed record therein, pp. 206, 207):

> "Respondents submit to the court that the *following questions arise* on the prayer of the petitioners:
>
> (1) Is the method by which the Terminal Association raises its necessary revenue an unlawful one?
>
> (2) Is the inclusion in the tariffs of the proprietary and non-proprietary lines of the Terminal Association unlawful, and are the divisions sheets attendant on such tariffs in providing a charge for said Terminal Association, unlawful?

(3) Is the concurrence of the Terminal Association in these tariffs unlawful?

(4) Should there be required the elimination of the Terminal Association from these tariffs, and the cancellation of these concurrences?

(5) Must the Terminal Association, for the raising of its revenues, confine itself to the promulgation of a switching tariff—that is, a uniform charge for the movement of cars over its lines, without regard to the contents of such cars or the service performed.

(6) *Shall East St. Louis continue* to be the *point* at which traffic shall be *interchanged* between the East Side lines and the West Side lines, or shall some *other interchange point be established* for part or all of said traffic?

(7) *If* a change is made in said interchange point, what, *if any,* changes shall be made in the tariffs or division sheets of the East and West Side Lines?

(8) Must the Terminal Association allow each of the proprietary and non-proprietary lines to haul its traffic over the rails of said Association and its subsidiaries, with its own engines and employees?

Respondents submit that all *these questions* are matters over which either the Interstate Commerce Commission or the managing officers of the Terminal Association, with the concurrence of said Interstate Commerce Commission, have control, and which were expressly, by the final decree, left in their control."

It will be observed from the foregoing answer of the east side lines in the former case before this Court, that one of the questions arising was whether East St. Louis should continue to be the point at which traffic should be interchanged between the east and the west side lines, or some other interchange point be estab-

lished for part or all of the traffic and also that if a change should be made in such interchange point, what, *if any*, change should be made in the tariffs or division sheets of the east and the west side lines. The foregoing plainly demonstrates that the east side lines recognized that the fundamental issue between these carriers was as to the point of interchange and that the question of rates and divisions *might* be affected thereby. The east side lines submitted to the Court that "*all* of *these questions* are matters over which the Interstate Commerce Commission * * * has control." Plainly, therefore, the issue as to whether the *sole* remedy of the west side lines was under the provisions of the Act relating to rates and divisions, and not under the provisions of the Act relating to interchange and delivery, was *not* an issue and was *not intended* by the east side lines to be submitted. The pleadings, therefore, before the Court in that case conclusively disprove the contention now made by the Appellants.

Furthermore, the east side lines in other briefs before this Court in contending that the controversy was within the jurisdiction of the Commission did not contend that it was exclusively a controversy under paragraph (6) of Section Fifteen of the Act, but cited in addition thereto the following sections of the Interstate Commerce Act showing the "powers of the Interstate Commerce Commission in reference to the matters here in controversy" (Appellants' brief, pages 27-28):

Paragraph (4,) of Section One:

> "It shall be the duty of every common carrier subject to this Act engaged in the transportation of passengers or property to provide and furnish

such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates, fares, and charges applicable thereto, and to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares or charges, to establish just, reasonable, and equitable divisions thereof as between the carriers subject to this Act participating therein which shall not unduly prefer or prejudice any of such participating carriers."

Paragraph (10) of Section 1:

"The Term 'car service' in this Act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this Act."

Paragraph (11) of Section 1:

"It shall be the duty of every carrier by railroad subject to this Act to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful."

Paragraph (3) of Section 3:

"All carriers, engaged in the transportation of passengers or property, subject to the provisions of this Act, shall, according to their respective

powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines and those connecting therewith, and shall not discriminate in their fares, and charges between such connecting lines, or duly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper."

VII.

Order of Commission is Valid and is a Lawful Exercise of Power Even Though the Interchange Arrangements Condemned Did Not Constitute a "Practice" Within the Meaning of That Term as Used in the Act.

Appellants state that (a) the west side lines invoked the jurisdiction of the Commission by presenting the question "solely as one involving a practice" (Appellants' brief, p. 2, line 31), and (b) that the interchange arrangements condemned do not constitute a "practice" within the meaning of that word as used in the Act. Appellants are in error both as to their alleged statement of fact and their conclusions of law.

The Appellees did *not submit this case to the Commission "solely as one involving a practice";* for they relied not only upon paragraph (1) of Section Fifteen of the Act which relates to "practices," but also upon paragraph (3) of Section Three, paragraphs (3), (4), (10) and (11) of Section One, and paragraph (3) of Section Fifteen, of the Act, which do not relate to practices.

The position taken by Appellants before the Commission (See 113 I. C. C. 681, l. c. 683, 2nd par.) that

the word "practice" as used in the Act relates only to matters between shippers and carriers, and not to questions affecting the handling of traffic *between carriers,* is directly contrary to the decisions of this Court in the Chicago Junction case, 264 U. S. 258, l. c. 267, and Tap Line cases, 234 U. S. 1, l. c. 29; for in the latter case, this Court said that the Commission "has the authority and it is its duty to reach all unlawful discriminatory practices resulting in favoritism and unfair advantages to particular *carriers* or shippers," and in the former case it said: "It is injury inflicted by denying to plaintiffs equality of treatment. To such treatment *carriers* are, under the Interstate Commerce Act, as fully entitled as any shipper." Moreover, Appellants have evidently overlooked the provisions of Section Thirteen of the Act which provides that any person, firm, corporation, company * * * or *common carrier,* complaining of anything done or omitted to be done, by any common carrier subject to the provisions of the Act in contravention of the provisions, may apply to the Commission by petition, etc.

As a matter of fact and law it is entirely immaterial whether the arrangements condemned by the Commission, constitute a "practice" as that term is used in the Act; because the ultimate legal question before this Court is whether the Commission has the power and authority under *any of the provisions* of the Interstate Commerce Act to make the order. The foregoing provisions of the Act relied upon by Appellees and *not* relating to practices, fully sustain the power and authority of the Commission to promulgate the order herein for the reasons hereinafter stated.

The east side lines plainly violated paragraph (3) of Section Three of the Act which requires them to afford

reasonable, proper and equal facilities for the interchange of traffic and for the receiving, forwarding and delivering of property to and from their several lines or those that connect therewith. They refused to afford such reasonable and equal facilities in that they compelled the west side lines under the arrangement condemned, to furnish *all* of the facilities of interchange in both directions. The rails of the Terminal *are the "facilities" used for interchange.* It collects a switching charge for each car so interchanged; but this is simply a financial arrangement of pro-rating the cost of the Terminal's maintenance and operation (Richmond Chamber of Commerce v. Seaboard A. L. Ry. Co., 44 I. C. C. 455, l. c. 460). The equality of interchange was not maintained under the former arrangements because the east side lines did not participate to any extent in the absorption or payment of these charges. They did not, therefore, furnish equal and reasonable facilities for the interchange of traffic on which they received line-haul rates and charges.

Furthermore, the arrangement in effect prior to the order herein governing the interchange of through trans-river traffic constituted a plain violation of the provisions of paragraph (4) of Section One of the Act in that the east side lines refused to provide reasonable facilities for operating through routes to St. Louis, the end of their respective lines, and to "make reasonable rules and regulations with respect to the operation of such through routes." This paragraph does not deal with "practices." By virtue of their ownership, control and perpetual right to the joint use of the rails of the Terminal, the east side carriers now fully recognize that their respective lines end at St. Louis and they should, therefore, as a matter of law, operate through

routes ~~rates~~ to that point on west bound traffic; for the compensation on the traffic involved herein is exactly the same as it is on a local shipment to St. Louis.

Moreover, under paragraphs (3) and (4) of Section 1 of the Act it is the duty of carriers to furnish and provide transportation, and the term "transportation" includes all services in connection with the receipt, *delivery* and transfer in transit of property transported. These two paragraphs do not relate to "practices." The Commission ordered the east side lines to deliver the traffic on the rails of the west side lines. This is nothing more or less than the *fulfillment of their duties as initial carriers under the common law.* In Myrick v. Michigan C. R. Co., 107 U. S. 102, l. c. 106, this Court said:

> "If the road of the company connects with other roads, and goods are received for transportation beyond the termination of its own lines, there is superadded to its duty as a common carrier that of a forwarder by the connecting line; that is, to *deliver* safely the goods *to such line*—the next carrier on the route beyond. This forwarding duty arises from the obligation implied in taking the goods for the point beyond its own line."

The foregoing quotation was also cited with approval by this Court in Texas & Pacific v. Reiss, 183 U. S. 621, l. c. 626, and in 10 Corpus Juris 534 the rule is stated as follows:

> "Where goods are to be transported to a point *beyond* the terminus of the initial carrier it is the duty of such carrier to *deliver* the goods *to the connecting carrier,* to be forwarded on its line, within a reasonable time, and in good condition for transportation."

Appellants allege in their bill of complaint (p. 9, Rec., pp. 7, 8) that the fact that the west side lines since 1877 have published their St. Louis, Missouri, rates to and from East St. Louis, and, thereby, absorbed the transfer charges in both directions, does not constitute a "practice" within the meaning of the Act, and that if it were a practice, it would be a practice of the west and not of the east side lines.

Appellants confuse effects with causes; fundamental duties of carriers under the law with the collateral burdens that flow therefrom; reasonable practices with the effect thereof. This is not a controversy over road haul rates; for the *rates* of the east side lines on west bound traffic are exactly the same to both St. Louis and East St. Louis. This is a controversy over the point of interchange. The west side lines were seeking to have the "practice" of interchange modified or changed. It was not a unilateral practice, for the east sides lines prior to the order compelled the west side lines to interchange traffic in both directions on their rails. The west side lines could not change the practice without the intervention of the mighty hand of the Commission. *The traffic involved herein is now being interchanged at St. Louis.* Certainly such an arrangement constitutes a "practice" and the east side lines have so admitted to this Court; for in their briefs, elsewhere cited herein, before this Court in Terminal Railroad Association v. United States, 266 U. S. 17, they said (their original brief, pp. 43-44):

> "After all, it is at last only the question of what is the point of interchange. * * * Up to the time that the Commission has been appealed to to make an order, and has refused to change an *existing practice.* * * * then the point of interchange fixed by the parties must stand."

The east side lines have themselves, therefore, stamped this controversy as a "practice."

In so far as this phase of the controversy is concerned, the question before this Court is whether the substantive provisions of the Interstate Commerce Act empower the Commission to order the east side carriers to participate in the burden and expense of interchange by delivering westbound traffic on the west bank of the river. If it has the power under the provisions of the law heretofore cited, then it is immaterial whether it is a "practice," or an "arrangement," or a "usage," or any other synonymous terms that may be found in a dictionary. That the Commission has the power this Court has already decided. *That question is res adjudicata.* It cannot be controverted again. If, however, it be relevant to determine whether the substantive thing which the Commission has ordered the east side lines to do, constitutes a "practice," the following decisions clearly show that the manner and method and means of interchanging through freight between carriers constitutes a practice within the meaning of that term as used in the Act:

> Northern Pacific v. Solum, 247 U. S. 477, l. c. 483.
> Central R. Co. of N. J., *et al.*, v. United States, *et al.*, 257 U. S. 247, l. c. 257.
> Louisville & Nashville R. Co. v. United States, 238 U. S. 1, l. c. 17.
> Atchison, T. & S. F. Ry. Co. v. United States, 232 U. S. 199, l. c. 221.
> Postal Telegraph-Cable Co. v. Western Union Telegraph Co., 59 I. C. C. 512, l. c. 516.

In Louisville & Nashville R. Co. v. United States, *supra,* this Court said, l. c. 20:

> "The question, as to power of the Commission to make this part of the order, is settled by the decision in Pennsylvania Company v. United

States, 236 U. S. 318, recently decided. The appellants, however, insist that that case did not involve switching, but transportation; and further they claim that the Pennsylvania road was there ordered to discontinue discrimination—while here the appellants are required by an affirmative order to devote their property to the use of a parallel and competing carrier. But the alleged differences do not serve to take the present case out of the principle announced in that just cited. For in this order the prohibition against the *existing practice* and the requirement to furnish *equal facilities* came to the same *thing.*"

VIII.

CONCLUSION.

Appellees respectfully submit that the order made by the Commission should be declared to be valid for the following reasons:

First. The law imposes a duty upon initial carriers to deliver *through* traffic *on the rails* of the connecting carriers. (10 Corpus Juris 534; Myrick v. Michigan C. R. Co., 107 U. S. 102, l. c. 106.)

Second. That by reason of the entrance of the east side lines to St. Louis through their joint subsidiary, the Terminal, (Manufacturers Ry. Co. v. St. Louis, I. M. & S. Ry. Co., 28 I. C. C. 93, l. c. 105), their obligation to deliver local traffic at St. Louis (St. Louis Terminal case, 34 I. C. C. 453, l. c. 456), their recognition of the two cities as one community (Business Men's League of St. Louis v. Atchison, T. & S. F. Ry. Co., 44 I. C. C. 308, l. c. 311), their establishment of the same basis of rates to both cities (Class and Commodity Rates, 32 I. C. C. 471, l. c. 475), their failure to accord the *same service* for traffic destined *beyond* St. Louis that they

perform on traffic destined *locally* to St. Louis constitutes a violation of the Act prohibiting undue prejudice against particular persons and discrimination of traffic.

Third. That as the Terminal Railroad Association is a jointly owned facility for interchanging traffic in the St. Louis-East St. Louis district between the east and the west side lines and theoretically exercises its corporate powers for the common benefit of all of its stockholders, the law requires that its upkeep and maintenance should be jointly borne by the east and the west side lines (Chicago, M. & St. P. Ry. Co. v. Des Moines U. R. Co., 254 U. S. 196, l. c. 204.)

Fourth. That the statutory provisions invoked by Appellees and Commission's order thereunder may lawfully be enforced without considering or adjudicating the level or measure of rates and divisions; because the foregoing provisions are separable, distinct and independent of the other provisions of the Interstate Commerce Act relating to rates and divisions, as, for example, paragraph (6) of Section Fifteen.

Fifth. That as the issues of rates and divisions was raised and tendered by the Appellants as an affirmative defense before the Commission, the east side lines are now foreclosed and estopped from claiming that such an issue should initially have been raised and tendered by the Appellees in their complaint before the Commission.

Sixth. That the question of the power of the Commission to make a lawful order herein is *res adjudicata* and cannot now be re-examined. The Commission ordered the east side lines to do the *identical thing* that the United States District Court ordered them to do (Compare decree as copied in Terminal Railroad Association v. United States, 266 U. S. 17, l. c. 27, and order of Commission herein, Rec., pp. 27, 28). As this Court

held that the decree of the District Court was without authority of law and that the Interstate Commerce Commission could lawfully make such an order, the question of the power of the Commission is now foreclosed.

The east side lines made no attempt before the Commission to show that the former practices of compelling the west side lines to bear the expense of transfer in *both* directions was just, fair, reasonable or proper. A perusal of their brief before this Court will show that their defenses therein related solely to the technics of procedure. They contended that the west side lines should have brought a cause seeking increased rates and divisions, notwithstanding the fact that the Commission in such a proceeding, could not compel them to participate reciprocally in the *burden of interchange or order* lawful and proper *delivery*. Had the west side lines brought a case asking for increased rates and divisions, the eastern carriers would, no doubt, have contended as they did before this Court in the former case, that the controversy involved after all *only* the question as to a *reasonable point of interchange* (see Chapter IV, *supra*).

Conditions in the St. Louis-East St. Louis switching district have radically and materially changed since 1877 when the west-side lines first assumed the burden of interchange in both directions and the *initial cause thereof has entirely lost its force;* for the railroads themselves in 1877 controlled the routing of traffic, and the east side lines had no rails and maintained no through routes to St. Louis. The eastern lines have, nevertheless, stressed the fact that since the western carriers assumed this burden since 1877, they should perpetually bear the expense of interchange. Since that time, however, the Interstate Commerce Act has

been enacted and its substantive provisions require carriers to furnish reasonable, equal and ample facilities for the interchange of traffic. Since that time the Terminal Railroad Association has been organized with joint facilities on both sides of the river for the interchange of traffic, but the east side lines have shared in all the benefits therefrom and have participated in none of the burdens in so far as this traffic is concerned. Through their numerical majority on its board of directors, the east side lines were able, up to the effective date of the Commission's order herein, to perpetuate this unjust burden on the western carriers long after the initial cause therefor had entirely spent its force. The doctrine of the east-side lines is: "Whatever is, is right." They deny the right of a carrier to assert its prerogatives under the law to remove a burden assumed under the exigencies of competition when the conditions were materially and radically different at St. Louis-East St. Louis than they are today. Two traffic executive officers of the eastern lines frankly recognized the unfairness and the injustice of the former practices and the Interstate Commerce Commission has refused to sanction the antiquated code that might makes right.

Respectfully submitted,

JOSEPH M. BRYSON,
W. F. DICKINSON,
EDWARD J. WHITE,
E. T. MILLER,
C. S. BURG,
WALLACE T. HUGHES,
H. H. LARIMORE,
M. G. ROBERTS,
Counsel for Western Carriers, Appellees.

March 5, 1928.

APPEND

REPRESENTATIVE CLASS RATES
LOUIS, MO., AND EAST ST. LO
(Nash Exhibit No. 72.)

CLASS RATES FROM EASTERN POI
ST. LOUIS, MO., AS O

TO EAST ST. LOU

Station From	Date	Classes. 1	2	3	4
Cincinnati, Ohio.	Feb. 1, 1906.....	40	34	25	17
	Feb. 1, 1908.....	41	34.5	25.5	17.5
	July 1, 1922.....	85	72.5	57	42.5
	Incr. 1922 over 1906..	45	38.5	32	25.5
	Per cent. of Increase..	112.5%	113.2%	128.0%	150.0
Cleveland, Ohio.	Feb. 1, 1906.....	51.5	44.5	33	23
	July 1, 1908.....	52.5	45.5	33.5	23
	July 1, 1922.....	103.5	88	69.5	52
	Incr. 1922 over 1906..	52.0	43.5	36.5	29
	Per cent. of Increase..	101.0%	98.8%	110.6%	126.1
Columbus, Ohio.	Feb. 1, 1906.....	45	39	30	21
	Feb. 15, 1908.....	46	39.5	30.5	21.5
	July 1, 1922.....	94.5	80.5	63.5	47.5
	Incr. 1922 over 1906..	49.5	41.5	33.5	26.5
	Per cent. of Increase..	110.0%	106.4%	111.7%	126.2
Detroit, Mich.	Feb. 1, 1906.....	45	39	30	21
	Aug. 18, 1908.....	46	39.5	30.5	21
	July 1, 1922.....	100.5	85.5	67.5	50.5
	Incr. 1922 over 1906..	55.5	46.5	37.5	29.5
	Per cent. of Increase..	123.3%	119.2%	125.0%	140.5
Indianapolis, Ind.	Feb. 1, 1906.....	37	32	23.5	16
	Feb. 10, 1908.....	38	32.5	24	16.5
	July 1, 1922.....	77.5	66	52	39
	Incr. 1922 over 1906..	40.5	34	28.5	23
	Per cent. of Increase..	109.5%	106.3%	121.3%	143.8
Louisville, Ky.	Feb. 1, 1906.....	40	34	25	17
	Feb. 1, 1908.....	41	34.5	25.5	17.5
	July 1, 1922.....	79	67	53	39.5
	Incr. 1922 over 1906..	39	33	28	22.5
	Per cent. of Increase..	97.5%	97.1%	112.0%	132.4
New York, N. Y.	Feb. 1, 1906.....	87	75	58	41
	Jan. 2, 1908.....	88	76	59	41
	July 1, 1922.....	166	145.5	110.5	77
	Incr. 1922 over 1906..	79	70.5	52.5	36
	Per cent. of Increase..	90.8%	94.0%	90.5%	87.8
Pittsburgh, Pa.	Feb. 1, 1906.....	55.5	48.5	37	26
	June 20, 1908.....	56.5	49	37.5	26
	July 1, 1922.....	122.5	104	82	61
	Incr. 1922 over 1906..	67	55.5	45	35
	Per cent. of Increase..	120.7%	114.4%	121.6%	134.6

Source of Information: Exhibit 72, in I. C. C. Docket 16697.

APPENDIX "A"

REPRESENTATIVE CLASS RATES FROM EASTERN POINTS TO ST. LOUIS, MO., AND EAST ST. LOUIS, ILL., AS OF VARIOUS DATES. (Nash Exhibit No. 72.)

CLASS RATES FROM EASTERN POINTS TO EAST ST. LOUIS, ILL., AND ST. LOUIS, MO., AS OF VARIOUS DATES.

Rates in Cents Per 100 Pounds.

Station From	Date	TO EAST ST. LOUIS, ILL. CLASSES.						TO ST. LOUIS, MO. CLASSES.					
		1	2	3	4	5	6	1	2	3	4	5	6
Cincinnati, Ohio.	Feb. 1, 1906.....	40	34	25	17	15	12	42	36	26	18	15.5	12.5
	Feb. 1, 1908.....	41	34.5	25.5	17.5	15	12	41	34.5	25.5	17.5	15	12
	July 1, 1922.....	85	72.5	57	42.5	30	24	85	72.5	57	42.5	30	24
	Incr. 1922 over 1906..	45	38.5	32	25.5	15	12	43	36.5	31	24.5	14.5	11.5
	Per cent. of Increase..	112.5%	113.2%	128.0%	150.0%	100.0%	100.0%	102.4%	101.4%	119.2%	136.1%	93.5%	92.0%
Cleveland, Ohio.	Feb. 1, 1906.....	51.5	44.5	33	23	19.5	15.5	53.5	46.5	34	24	20	16
	July 1, 1908.....	52.5	45.5	33.5	23	19.5	15.5	52.5	45.5	33.5	23	19.5	15.5
	July 1, 1922.....	103.5	88	69.5	52	36	29	103.5	88	69.5	52	36	29
	Incr. 1922 over 1906..	52.0	43.5	36.5	29	16.5	13.5	50.0	41.5	35.5	28	16	13
	Per cent. of Increase..	101.0%	98.8%	110.6%	126.1%	84.6%	87.1%	93.5%	89.3%	104.4%	116.7%	80.0%	81.3%
Columbus, Ohio.	Feb. 1, 1906.....	45	39	30	21	18	14	47	41	31	22	18.5	14.5
	Feb. 15, 1908.....	46	39.5	30.5	21.5	18	14	46	39.5	30.5	21.5	18	14
	July 1, 1922.....	94.5	80.5	63.5	47.5	33	26.5	94.5	80.5	63.5	47.5	33	26.5
	Incr. 1922 over 1906..	49.5	41.5	33.5	26.5	15	12.5	47.5	39.5	32.5	25.5	14.5	12.0
	Per cent. of Increase..	110.0%	106.4%	111.7%	126.2%	83.3%	89.3%	101.1%	96.3%	104.8%	115.9%	78.4%	82.8%
Detroit, Mich.	Feb. 1, 1906.....	45	39	30	21	18	14	47	41	31	22	19	15
	Aug. 18, 1908.....	46	39.5	30.5	21	18	14	46	39.5	30.5	21	18	14
	July 1, 1922.....	100.5	85.5	67.5	50.5	35	28	100.5	85.5	67.5	50.5	35	28
	Incr. 1922 over 1906..	55.5	46.5	37.5	29.5	17	14	53.5	44.5	36.5	28.5	16	13
	Per cent. of Increase..	123.3%	119.2%	125.0%	140.5%	94.4%	100.0%	113.8%	108.5%	117.7%	129.5%	84.2%	86.7%
Indianapolis, Ind.	Feb. 1, 1906.....	37	32	23.5	16	13.5	10.5	39	34	24.5	17	14	11
	Feb. 10, 1908.....	38	32.5	24	16.5	13.5	10.5	38	32.5	24	16.5	13.5	10.5
	July 1, 1922.....	77.5	66	52	39	27	21.5	77.5	66	52	39	27	21.5
	Incr. 1922 over 1906..	40.5	34	28.5	23	13.5	11.0	38.5	32	27.5	22	13	10.5
	Per cent. of Increase..	109.5%	106.3%	121.3%	143.8%	100.0%	104.7%	98.7%	94.1%	112.2%	129.4%	92.9%	95.5%
Louisville, Ky.	Feb. 1, 1906.....	40	34	25	17	15	12	42	36	26	18	15.5	12.5
	Feb. 1, 1908.....	41	34.5	25.5	17.5	15	12	41	34.5	25.5	17.5	15	12
	July 1, 1922.....	79	67	53	39.5	27.5	22	79	67	53	39.5	27.5	22
	Incr. 1922 over 1906..	39	33	28	22.5	12.5	10	37	31	27	21.5	12.0	9.5
	Per cent. of Increase..	97.5%	97.1%	112.0%	132.4%	83.3%	83.3%	88.1%	86.1%	103.8%	119.4%	77.4%	76.0%
New York, N. Y.	Feb. 1, 1906.....	87	75	58	41	35	29	89	77	59	42	35.5	29.5
	Jan. 2, 1908.....	88	76	59	41	35	29	88	76	59	41	35	29
	July 1, 1922.....	166	145.5	110.5	77	66	55.5	166	145.5	110.5	77	66	55.5
	Incr. 1922 over 1906..	79	70.5	52.5	36	31	26.5	77	68.5	51.5	35	30.5	26.0
	Per cent. of Increase..	90.8%	94.0%	90.5%	87.8%	88.6%	91.3%	86.5%	89.0%	87.3%	83.3%	85.9%	88.1%
Pittsburgh, Pa.	Feb. 1, 1906.....	55.5	48.5	37	26	22.5	18.5	57.5	50.5	38	27	23	19
	June 20, 1908.....	56.5	49	37.5	26	22.5	18.5	56.5	49	37.5	26	22.5	18.5
	July 1, 1922.....	122.5	104	82	61	43	34	122.5	104	82	61	43	34
	Incr. 1922 over 1906..	67	55.5	45	35	20.5	15.5	65.0	53.5	44	34	20	15
	Per cent. of Increase..	120.7%	114.4%	121.6%	134.6%	91.1%	83.8%	113.0%	105.9%	115.8%	125.9%	87.0%	78.9%

Source of Information: Exhibit 72, in I. C. C. Docket 16697.

JUN 2 1928
CHARLES ELMORE CROPLEY
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1927.

No. 404.

THE BALTIMORE & OHIO RAILROAD COMPANY, WILLIAM W. WHEELOCK and WILLIAM G. BIERD, Receivers of the CHICAGO & ALTON RAILROAD COMPANY; CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY, THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY, ILLINOIS TRACTION, INC.; ILLINOIS CENTRAL RAILROAD COMPANY, LITCHFIELD & MADISON RAILWAY COMPANY, LOUISVILLE & NASHVILLE RAILROAD COMPANY, MOBILE & OHIO RAILROAD COMPANY, THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD COMPANY, the PENNSYLVANIA RAILROAD COMPANY, SOUTHERN RAILROAD COMPANY and WABASH RAILWAY COMPANY,

Appellants,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY, MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, MISSOURI PACIFIC RAILROAD COMPANY and ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY,

Appellees.

PETITION FOR REHEARING AND MODIFICATION OF OPINION.

JOSEPH M. BRYSON,
W. F. DICKINSON,
EDWARD J. WHITE,
E. T. MILLER,
C. S. BURG,
WALLACE T. HUGHES,
H. H. LARIMORE,
M. G. ROBERTS,
Counsel for West-Side Lines, Appellees.

St. Louis Law Printing Co., 415 North Eighth Street. CEntral 4477.

INDEX.

Page

Petition for rehearing.....1 to 28

Assignments of Error:

I 2

II 9

III 11

IV 12

V 13

VI 14

VII 16

VIII 19

Appendix—Statement of Representative Class Rates From Eastern Points to St. Louis, Mo., and East St. Louis, Ill., as of Various Dates.....Opp. 28

Cases Cited.

Burge v. Railroads, 244 Mo. 76, l. c. 95..... 9

10 Corpus Juris 534..... 3

Myrick v. Michigan C. R. Co., 107 U. S. 102, l. c. 106.. 3

Richmond Chamber of Commerce v. Seaboard A. L. Ry. Co., 44 I. C. C. 455, l. c. 460..... 4

Texas & Pacific v. Reiss, 183 U. S. 621, l. c. 626..... 3

U. S. v. Terminal R. R. Assn. of St. Louis, 224 U. S. 383 .....21, 22, 23, 24, 27

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1927.

No. 404.

THE BALTIMORE & OHIO RAILROAD COMPANY, WILLIAM W. WHEELOCK and WILLIAM G. BIERD, Receivers of the CHICAGO & ALTON RAILROAD COMPANY; CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY, THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY, ILLINOIS TRACTION, INC.; ILLINOIS CENTRAL RAILROAD COMPANY, LITCHFIELD & MADISON RAILWAY COMPANY, LOUISVILLE & NASHVILLE RAILROAD COMPANY, MOBILE & OHIO RAILROAD COMPANY, THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD COMPANY, the PENNSYLVANIA RAILROAD COMPANY, SOUTHERN RAILROAD COMPANY and WABASH RAILWAY COMPANY,

Appellants,

vs.

THE UNITED STATES OF AMERICA, THE INTERSTATE COMMERCE COMMISSION, THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY, MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, MISSOURI PACIFIC RAILROAD COMPANY and ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY,

Appellees.

PETITION FOR REHEARING AND MODIFICATION OF OPINION.

Now come the Chicago, Rock Island and Pacific Railway Company, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company and St. Louis-San Francisco Railway Company, appellees in the above case, and respectfully petition the Court for a rehearing and for a modification of the opinion herein for the reasons hereinafter set forth.

I.

Appellants, in their brief before this Court, stated that the west-side lines invoked the jurisdiction of the Interstate Commerce Commission by presenting the question "solely as one involving a practice" (Appellants' Brief, p. 2, line 31), and the Court *seems to have assumed that the case was submitted solely as one involving a practice.* The appellees did not submit this case to the Interstate Commerce Commission "solely as one involving a practice," because they relied not only upon Paragraph 1 of Section (15) of the Interstate Commerce Act, which relates to "practices," but also upon paragraph 3 of section (3), paragraphs 3 and 4 of section (1), paragraphs 10 and 11 of section (1), and paragraph 3 of section (15) of the act, which *do not relate to "practices."*

The ultimate legal question before the Court is:

(a) Whether the Commission had the power, under *any of* the provisions of the Interstate Commerce Act, to compel the east-side lines to "bear the expense incident to the transfer across the Mississippi River from East St. Louis, Illinois, to St. Louis, Missouri, of practically all carload and less-than-carload through freight," and

(b) Whether there was substantial evidence in the record to support the order.

First dealing with paragraph (a), *supra,* if the Commission has the power under any of the provisions of the act, then it is immaterial whether it is a "practice," or

an "arrangement," or a "usage," or any other synonymous term. Under paragraphs 3 and 4 of section (1) of the act it is the duty of carriers to furnish and provide transportation, and the term "transportation" includes all services in connection with the receipt, *delivery* and transfer in transit of property transported. These two paragraphs do not relate to "practices." The Commission ordered the east-side lines to deliver the traffic on the rails of the west-side lines by absorbing the switching charges of their joint agent, the Terminal Railroad Association. This is nothing more or less than the fulfillment of their duties as initial carriers under the common law. In Myrick v. Michigan C. R. Co., 107 U. S. 102, l. c. 106, this Court said:

> "If the road of the company connects with other roads, and goods are received for transportation beyond the termination of its own lines, there is superadded to its duty as a common carrier that of a forwarder by the connecting line; that is, to deliver safely the goods *to such line*—the next carrier on the route beyond. This forwarding duty arises from the obligation implied in taking the goods for the point beyond its own line."

The foregoing quotation was also cited with approval by this Court in Texas & Pacific v. Reiss, 183 U. S. 621, l. c. 626, and in 10 Corpus Juris 534 the rule is stated as follows:

> "Where goods are to be transported to a point beyond the terminus of the initial carrier it is the

> duty of such carrier to *deliver* the goods *to the connecting carrier,* to be forwarded on its line, within a reasonable time, and in good condition for transportation."

Again, the provisions of paragraph 3 of section (3) of the act, which does not relate to "practices," give the Commission ample power to deal with the situation and to order the east-side lines to participate in the expense and burden of interchanging through freight. That section requires all carriers to afford reasonable, proper and equal facilities for the interchange of traffic and for the receiving, forwarding and delivering of property to and from their several lines or those that connect therewith. The east-side lines refused to afford such reasonable and equal facilities in that they compelled the west-side lines to furnish all of the facilities of interchange in both directions. The rails of the Terminal are the "facilities" used for interchange. It collects a switching charge for each car so interchanged, but this is simply a financial arrangement of prorating the cost of the Terminal's maintenance and operation (Richmond Chamber of Commerce v. Seaboard A. L. Ry. Co., 44 I. C. C. 455, l. c. 460). The equality of interchange was not maintained under the former arrangements because the east-side lines did not participate to any extent in the absorption or payment of these charges. They did not, therefore, furnish equal and reasonable facilities for the interchange of traffic on which they received line-haul rates and charges.

Furthermore, the provisions of paragraph 4 of section (1) of the act upon which appellees relied, authorized the Commission to make the order, because the arrangements in effect prior to the order of the Commission governing the interchange of through transriver freight constituted a plain violation of the provisions of paragraph 4 of section (1) of the act in that the east-side lines refused to provide reasonable facilities for operating through routes to St. Louis, the end of their respective lines, and to "make reasonable rules and regulations with respect to the operation of such through routes." This paragraph does not deal with "practices." By virtue of their ownership, control and perpetual right to the joint use of the rails of the Terminal the east-side carriers now fully recognize that their respective lines end at St. Louis and they should, therefore, as a matter of law, operate through routes to that point on westbound traffic, for the compensation on the traffic involved herein is exactly the same as it is on a local shipment to St. Louis.

As those provisions of the Interstate Commerce Act not relating to "practices" amply sustain the power of the Interstate Commerce Commission to compel the east-side lines to participate in the burden and expense of interchanging through traffic, the further question arises whether there was substantial evidence in the record to support the order of the Commission. On this point this Court said:

> "There was nothing to support a finding that it is or will be unjust or unreasonable for the appellee lines to bear the cost of the westbound through traffic. The order cannot be sustained."

Appellees respectfully submit that the order of the Commission was supported by substantial evidence, and we will here give a brief summary of the facts in the record supporting the order.

First. When the east-side lines, commencing in 1905 and ending in 1908, recognized St. Louis as a station on their lines by increasing their St. Louis-East St. Louis rate from 116 to 117 per cent, they did then, have ever since and do now apply those increased rates to the relatively greater amount of through traffic involved herein (Witness Adams, Rec., p. 367; Witness Nash, Rec., p. 342).

Second. Since 1906 the record before the Commission disclosed that the rates of the east-side lines to St. Louis-East St. Louis have been increased on the average of about 100 per cent (Nash's Ex. No. 672, Rec., p. 616, Appendix A, infra).

Third. The record before the Commission disclosed that the railway operating revenues and the net railway operating income of the east-side lines averaged $32,593 and $4,944, respectively, per mile of road, while the same revenues and income for the four west-side lines averaged only $16,900 and $2,826, respectively, per mile of road (Press' Ex. No. 77, Rec., p. 387).

Fourth. The east-side lines now maintain the same rates to St. Louis on local traffic that they maintain on the traffic involved herein to East St. Louis, but they refuse to perform the same service on the traffic involved herein that they do on the traffic moving locally to St. Louis. In other words, they furnish the facilities for and operate through routes to St. Louis, Missouri, on local traffic, but they refuse to furnish the facilities for and to operate through routes to St. Louis on traffic destined beyond, although their rates to the two towns are exactly alike.

Fifth. The east-side lines recognize the Terminal Railroad Association as their agent in performing the interchange switching on westbound through traffic by paying its per diem charges (Our Original Brief, p. 24).

Sixth. Officers of Eastern lines have admitted that the present arrangements are unfair and unjust. Mr. George H. Crosby, freight traffic manager of the Chicago, Burlington & Quincy Railroad Company, on April 7, 1908, wrote in part to Mr. W. B. Biddle, vice-president of the Frisco Lines, as follows (Ex. No. 5):

> "I think this whole question of transfer between St. Louis and East St. Louis should be disposed of on an equitable basis. As the matter stands today, the western line pays the transfer on both eastern and western business, *which is manifestly unfair,* and we are ready to co-operate with the other interested lines in bringing about a reformation in this respect."

A similar letter was written by Mr. George H. Ross, vice-president and general traffic manager of the Toledo,

St. Louis & Western Railroad Company (Our Original Brief, pp. 17-19). If a confession in a criminal case is sufficient to convict, certainly admissions of like nature before the Interstate Commerce Commission are sufficient to warrant an order.

Seventh. That there is a generally recognized practice on the part of the road-haul carriers to make delivery of through traffic on a designated track in the yards of the receiving carrier either by direct delivery or by using an intermediate switching line at its expense.

Eighth. That the east-side lines do furnish the facilities for and operate through routes to and from St. Louis, Missouri, on local traffic and do not furnish the facilities for nor operate through routes to St. Louis on traffic destined beyond.

Ninth. That the decree and operating contracts governing the maintenance and operation of the Terminal Railroad Association provide that any new company may become a member of the Terminal Railroad Association upon a plane of equality in respect of burdens and benefits, and that any company not electing to become a member may use all of its facilities upon as nearly equal plane as may be with respect to expenses and charges.

Tenth. That the east-side lines themselves, on all through traffic at East St. Louis, Illinois, other than trans-river through traffic, reciprocally bear the burden and expense of interchange thereon.

Eleventh. That the contract continuing the existence of the Terminal Railroad Association as their joint terminal and interchange facility contemplates that all carriers shall have equitable treatment in the matter of service, rights, accommodations, benefits, burdens, expenses and charges.

II.

Appellees respectfully submit that the opinion herein should be modified by eliminating therefrom the sentence in italic, to wit:

> "The appellee lines adopted the policy of absorbing the transfer charges in order to meet competition of the Alton and have since continued to divide joint rates and apply their St. Louis-East St. Louis rates in combination on that basis. *There is a strong presumption that the general level of their rates has been adjusted to include reasonable compensation for the services covered by them.*"

As well said by the Court in Burge v. Railroads, 244 Mo. 76, l. c. 95:

> "A presumption takes flight upon the appearance of the facts themselves. When the facts themselves are in evidence there is no place for a presumption as to those facts. A presumption is only indulged in in the absence of evidence as to the facts."

The record before the Interstate Commerce Commission conclusively discloses that the west-side lines are not being

compensated out of their rates and divisions for the river transfer service. Briefly summarized, the oral testimony and documentary evidence introduced by the appellees before the Commission showed that, although the west-side lines bore the burden and expense of transfer in both directions, they were neither fully compensated nor even partially compensated by the amounts received by them for their services in connection with such through traffic (Witnesses Leland, Rec., p. 328; Nash, Rec., p. 340; Adams, Rec., p. 366, and Haile, Rec., p. 323). A joint committee of the east-side and west-side lines, appointed at a meeting held on October 30, 1915, reported as follows:

> "Prior to the completion, in 1877, of the Chicago & Alton's bridge at Louisiana, Missouri, rates between points east and west of St. Louis-East St. Louis were made on the full combination of locals with the Mississippi River transfer charge added, the rates of the west-side lines applying to or from St. Louis and of the east-side lines from or to East St. Louis. With the completion of the Chicago & Alton bridge that line published the *St. Louis basis* of rates between *East St. Louis* and stations on its lines west of the Mississippi River, forcing the west-side lines to take similar action and *absorb* river transfer, as the through rates were necessarily based on East St. Louis, there being no rates published between St. Louis, Missouri, and points east of the Mississippi River" (Ex. No. 59, pp. 5, 6).

Furthermore, Mr. Maxwell, vice-president of the Wabash, and a leading witness for the east-side lines, testified (Rec., p. 274):

> "In 1877, when the Chicago & Alton completed its bridge at Louisiana, Missouri, it entered the traffic between St. Louis and the West via Louisiana, thus establishing *the St. Louis rates* between East St. Louis and points west of St. Louis, with the exception of a small portion of near-by territory west of the Mississippi River. All other western roads at St. Louis voluntarily met the action of the Chicago & Alton, and thus established between East St. Louis and all points west the St. Louis basis of rates, *which basis is still in effect.* * * * Conditions as to the Western roads under which St. Louis rates were made voluntarily by them from East St. Louis have also remained *unchanged to this day.*"

III.

The Court erred in holding that:

> "The same considerations apply in determining the reasonableness of the apportionment of revenues derived from combination rates as govern the division of joint rates. The merits of the changes made by the order cannot be determined without a consideration of facts substantially similar to those specified in paragraph (6) of section 15 relating to the division of joint rates."

There can be no division of combination rates already divided over a given junction point. The Commission

is not charged with the duty of dividing combination rates in cases where the revenue produced by each factor is retained by the respective carrier.

The rails of the Terminal Association constitute a joint facility by means of which traffic moving on combination of rates on St. Louis, Missouri, is interchanged between the lines forming such Terminal Association. A situation is presented similar to that which obtains at any junction point where two carriers interchange traffic by means of a connecting track.

Paragraph (3) of Section 3 of the Interstate Commerce Act provides that all carriers engaged in the transportation of passengers or property shall afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and it may be assumed that the Commission has authority to require the carriers to provide such facilities. The rails of the Terminal being a joint facility and in law the rails of the proprietary lines, this case should be decided upon the assumption that the rails of the Terminal are in fact the rails of the east-side and west-side lines. Certainly the Commission, in enforcing the provisions of paragraph (3) of section 3 of the act, would not be required to enter into the question of divisions.

IV.

The Court holds:

> "So all the revenues yielded by such rates, without deduction on account of charges for transfer, are re-

tained by the carriers in the territory east of the river. But the Commission's order requires the rates so by tariff provisions limited to East St. Louis to be extended to St. Louis. This operates to deduct the cost of transfer from their revenue. In effect, it is to require the cancellation of such tariff provisions, and to authorize a corresponding change in the tariffs of the appellee lines. It results that the controversy before the Commission involved divisions or portions of revenues derived from through traffic."

The foregoing holding is error in that it is stated that the effect of the order of the Commission would be to authorize a change in the tariffs of the appellee lines. As to traffic moving on rates which are a combination on St. Louis and East St. Louis, there would be no change in the present wording of the tariffs filed by the west-side lines.

As heretofore stated, the Court overlooks the fact that a requirement by the Commission that a carrier furnish proper facilities to effect interchange is not in law an apportionment or division of revenue.

V.

The Court holds as follows:

"The appellee lines adopted the policy of absorbing the transfer charges in order to meet competition of the Alton and have since continued to divide joint rates and apply their St. Louis-East St. Louis rates in combination on that basis. There is a strong pre-

sumption that the general level of their rates has been adjusted to include reasonable compensation for the services covered by them."

In connection with the foregoing finding we desire to call the attention of the Court to the fact that the strong presumption referred to should disappear upon the appearance of the facts. The Court itself finds that the appellee lines adopted the policy of absorbing the transfer charges in order to meet competition of the Alton, and the testimony in this case before the Commission shows that when such policy was adopted and the rates of the west-side lines extended to East St. Louis, there was no increase in such rates. This testimony establishes conclusively the fact that the west-side lines are not in any manner compensated as to the traffic here involved by accepting such traffic on the east bank of the river.

VI.

The Court finds as follows:

"Since the Alton opened its route to the west, the appellee lines have maintained the same rates from and to East St. Louis as from and to St. Louis, and about 1918, upon the insistence of the business interests of St. Louis, the lines east of the river published and have since maintained, with some exceptions that need not be specified, the same rates from and to St. Louis as from and to East St. Louis. This was done

by reducing the rates to and from St. Louis and by advancing most of the rates to and from East St. Louis."

The Commission could well find from the testimony that inasmuch as identically the same service is performed by the east-side lines in connection with traffic destined to St. Louis as is performed in connection with traffic destined to points beyond; that that fact in and of itself tended to show ample compensation to the east-side lines because of payment by those lines of the transfer charges on through traffic, especially since the east-side lines advanced the East St. Louis rate when that rate was extended to St. Louis.

We have this situation: Here are rates made on combination on St. Louis and East St. Louis. When the west-side lines extended the St. Louis rate to East St. Louis, there was no advance in the St. Louis rate, but when the east-side lines extended the East St. Louis rate to St. Louis there was an advance in the East St. Louis rate. This fact in and of itself will support a finding by the Commission that it is reasonable and proper for the east-side lines to transport through traffic to the ends of their lines at St. Louis.

Further, the fact that the east-side lines, having advanced the East St. Louis rate, are willing to extend that rate to St. Louis on traffic local to St. Louis, is persuasive that such east-side lines are amply compensated by deliv-

ering through traffic to west-side lines at St. Louis when the respective services are identical.

In view of the foregoing, we respectfully submit that the holding of the Court that there was nothing to support a finding; that it is, or will be, unjust or unreasonable for the appellee lines to bear the cost of transfer of westbound through traffic is error.

VII.

The Court erred in holding that the matters in controversy in both proceedings were purely financial and that there was no question concerning furnishing of facilities or the handling of traffic.

Inasmuch as through traffic only is involved, we refer to paragraph (4) of Section 1 of the Interstate Commerce Act, which provides in substance that it shall be the duty of every common carrier engaged in the transportation of passengers or property to establish through routes and provide reasonable facilities for operating them, and make reasonable rules and regulations with respect to the operation of such through routes; and in case of joint rates, fares or charges, to establish such reasonable and equitable divisions thereof as between the carriers subject to this act participating therein which shall not unduly prefer or prejudice any of such participating carriers.

It will be observed that paragraph (4) referred to undertakes to deal with through routes over which there are

no joint rates, fares or charges, and with through routes over which there are joint rates, fares or charges. In the first instance the paragraph was undoubtedly intended to cover traffic moving on combination rates, and as to such traffic it was made the duty of the carriers to provide reasonable facilities, undoubtedly having in mind the delivery of such traffic by one carrier to another. This being true, the failure of a carrier to establish reasonable facilities for making such delivery is unquestionably a violation of said paragraph (4) and subjects the carrier at fault to the jurisdiction of the Interstate Commerce Commission to the end that that body may require the offending carrier to establish and maintain such reasonable and proper facilities.

It is unquestionably true that the rails of the so-called east-side lines extend to St. Louis, Missouri, either through direct ownership or through a joint ownership in the properties of the Terminal Railroad Association, the tracks of which are in law an extension of the rails of the east-side carriers. The rails of the Terminal are also an extension of the lines of the west-side carriers. That is to say, by reason of the existence of the Terminal it may be stated that the lines of the east-side carriers extend to St. Louis, Missouri.

The Court, in holding that there was no question concerning furnishing of facilities, overlooked the fact that if west-side lines are required to accept the traffic in question at East St. Louis through a payment of the transfer

charge, in law furnish the facilities for bringing such traffic across the river for delivery direct on the rails of the west-side lines. Unquestionably this is a furnishing of facilities by west-side lines and a failure on the part of east-side lines to furnish facilities for a delivery of westbound traffic to the end of their lines at St. Louis, Missouri.

The reception of such traffic at East St. Louis by the Terminal Company for the west-side lines, with the consequent payment therefor by the latter, results in law in the furnishing of facilities by the west-side lines in connection with such traffic.

A requirement, therefore, that the east-side lines deliver through westbound traffic to west-side lines at St. Louis is a requirement that such east-side lines furnish facilities therefor. In fact, the question of furnishing facilities and handling the traffic was one of the important questions to be passed upon by the Commission. It is the position of the east-side lines that if west-side lines do not furnish facilities necessary to transport through traffic from the east bank of the Mississippi River to the west bank that east-side lines are under no lawful obligation to do otherwise than deposit the traffic on the east bank of the river.

Evidently the provisions of paragraph (4) of Section 1 of the Interstate Commerce Act do not require that the Commission, before it can compel carriers to provide reasonable facilities for operating through routes in connec-

tion with traffic moving on combination rates to go into and make a finding as to divisions of such rates. In fact, we do not know how, in making such a finding, the Commission could divide rates that already divide at a junction point.

VIII.

After mentioning the fact, in the course of its opinion, that in the suit of the United States to dissolve the Terminal Railroad Association of St. Louis because it was an illegal combination in violation of the Sherman Antitrust Act, and, after having mentioned the fact that a final decree of this Court adjudicated that the said Terminal Association was an illegal combination in violation of the Sherman Antitrust Act (224 U. S. 383), in finally concluding that the Terminal Association could continue to exist while flagrantly violating the express condition prescribed as a condition for the continued existence of said illegal combination, the Court clearly failed to give effect to its former decision in the Government's case and held that, by violation of the terms of this Court's decree—which five Circuit Judges found had been in bad faith ever since such decree was rendered—the Court failed to recognize that no prescriptive right to violate the law can accrue through lapse of time.

In finding that the order of the Commission requires no change of divisions of revenues derived from traffic moving on joint rates, but that the order only shifts from the west-side lines to the carriers east of the river the burden

of transferring freight from the west to the east side of the river, the opinion is in error in concluding that any division of rates is involved, the whole charge being one of discrimination, in the violation of this Court's decree, in imposing the transfer charges of a joint facility upon a few of the proprietary lines, in violation of this Court's decree that all the users of the Terminal, proprietary and nonproprietary, should be treated upon a basis of equality.

In finding that the Terminal was jointly owned by the appellant and appellee lines, and that "*the arrangements for their use contemplate equal treatment of all carriers served by them,*" the Court erred in holding that the practice in violation of this "arrangement" was not an illegal practice, since it was also in violation of the decree of this Court in 224 U. S. 383-386.

In assuming that the discrimination indulged in, in the face of this Court's decree, for the past fourteen years—which five different United States Circuit Judges found had its foundation in bad faith on the part of the Terminal and the east-side lines—had ripened into a legal practice, although grossly discriminatory, because "*appellee lines, in order to enable them to compete with other railroads west of the Mississippi River,*" assumed such transfer charges, the Court overlooked the fact that, in the final decree in the Government's prosecution, this Court held that the Terminal was an illegal combination in restraint of trade and that it could only continue to exist if it stopped discriminating between proprietary and

nonproprietary lines, and if the east-side lines stopped the practice of having their rates break on the east side of the river, which the Court, in this case, approved, thus overruling, by implication, the very wholesome decision of this Court in the case of

> United States v. Terminal Railroad Association of St. Louis, 224 U. S. 383.

In admitting, in its opinion in this case, that

> "this competition for the haul between East St. Louis and the territory west of St. Louis compelled the four appellee lines to bear the cost of transferring across the river all through traffic in both directions,"

the Court concludes that a discriminatory practice, which was expressly condemned as against public policy in this Court's opinion in the Government's case (224 U. S. 383), could be legalized because such discrimination was agreed to by the Western carriers *before the construction of the terminal* and prior to the decision of this Court that such discrimination was an illegal practice which would justify the dissolution of the Terminal.

After mentioning the fact that the east-side lines had published

> "the same rates from and to St. Louis as from and to East St. Louis,"

the Court, in its conclusion that the east-side lines were not estopped by this action in demanding that the west-

side lines should pay the transfer charges over a joint facility on all through westbound business, clearly lost sight of the fact that this Court found (in the 224 U. S. 383) that the rails of the Terminal were but an extension of the rails of the proprietary lines, and that this Court held that the Terminal Association must treat all proprietary and nonproprietary lines alike, or that it should be dissolved as an illegal combination in restraint of trade.

In concluding that the order of the Commission concerned *"no furnishing of facilities or the handling of traffic"* the Court clearly failed to grasp the terms and effect of the order of the Commission, as the thing involved is "the furnishing of facilities" and "the handling of traffic" by a joint facility, which this Court had previously held must be the impartial agent of all the carriers using it in order to justify its continued existence.

In assuming that the practice of the east-side lines in having their rates "break" on the east side of the river was a legal practice, the Court failed to give effect to the express mandate of this Court in the prosecution by the Government, wherein this very practice was condemned, and this Court held that this practice—which had survived the reason for its existence, as the river was no longer a barrier after the construction of the Terminal Company's bridge—furnished the basis for the fourth condition in this Court's decree, reading as follows:

"*Fourth.* By providing for the complete abolition of the existing practice of billing to East St. Louis or other junction points and then rebilling traffic destined to St. Louis or to points beyond."

224 U. S. 411.

In holding that the discrimination of the east-side lines and the Terminal Association against the four west-side lines, whereby they are compelled to defray practically all the expense of operating the Terminal Railroad Association of St. Louis, was not "a practice" within the meaning of the Transportation Act, giving the Interstate Commerce Commission authority over the subject matter of this suit, the Court failed to give effect to the finding of this Court in the prosecution by the Government wherein this Court expressly held that "*the complete abolition of the existing practice of billing to East St. Louis*" should be demanded as a condition of the further existence of the Terminal Association.

For this Court to hold, in the prosecution by the Government, that this was "a practice" which must be abolished, and for this Court, in the present case, to hold that it is not "a practice" within the meaning of the Transportation Act which will entitle four of the proprietary lines to relief, is clearly at variance with this Court's finding in the previous decision in the prosecution by the Government.

After prescribing, as this Court did in the sixth condition in the decree in the prosecution by the Government,

against the illegal association, known as the Terminal Railroad Association of St. Louis, that any of the proprietary lines could apply to the Court or to the Commission for relief, and the final decree, in accordance with this Court's mandate, contained this condition justifying the further continuance of the Terminal Association, the decision of this Court, in this case, that the Commission could not grant relief against the flagrant violation of this Court's decree, clearly denies the appellees the benefit of said decree, in clear violation of the sixth condition prescribed by this Court in its decision in the case of the

United States v. Terminal Railroad Association of St. Louis, 224 U. S. 412.

In concluding that the order of the Commission in this case "*involved divisions or apportionments of revenues derived from through traffic,*" the Court overlooked the fact that the only thing involved was an illegal practice by joint users of a terminal facility, involving only the transfer charge for the use of said facility, where the practice of making four of the users of said facility pay all the expense of operating the same, was in flagrant violation of a decree of this Court rendered fourteen years ago that such practice must be stopped or the illegal combination indulging in such practice would be dissolved as a combination in restraint of trade, in violation of the Sherman Antitrust Act.

224 U. S. 412.

In holding that the four west-side lines must continue to bear all the expense of operating the St. Louis terminals because "*the Alton and other like competitors of appellee lines bear the cost of the transfer across the river,*" the Court overlooks the fact that the Alton is both an east-side and a west-side line, as are the Burlington and the Wabash, and that this practice of the east and west lines, in paying the transfer charge across the river, instead of justifying a further discrimination on the part of the east-side lines, proprietary and nonproprietary, against the four west-side lines, is rather a reason why the illegal practice, condemned by this Court in its decree in 1914, should now be stopped, since the Terminal Association is but an extension of the rails of the east-side lines, as this Court expressly held, just as it is an extension of the rails of the Alton and other competitors of the appellees.

In concluding that the Commission was wrong in assuming that the transfer charges should be paid by the east-side lines in delivering through westbound freight to the west-side carriers, because

> "such a practice does not tend to prove that it is unjust or unreasonable for the appellee lines, in order to meet competition of other west-side lines, to bear the cost of transfer in both directions, *or that the east-side lines may not justly and reasonably limit their rates to East St. Louis,*"

the Court overlooks the fact that this very "practice" was expressly condemned by this Court as unjust and unreasonable, and that this Court, in the fourth condition, annexed to the further existence of the illegal Terminal Association, prescribed

> "for the complete abolition of the existing practice of billing to East St. Louis or other junction points and then rebilling traffic destined to St. Louis or to points beyond."

After this Court annexed the continued existence of the Terminal Association to the abolition of this "practice," for this Court now to assume that this adjudged illegal "practice," because it has been indulged in in the face of this Court's decree for fourteen years, can thus become "just and reasonable," and that, notwithstanding such "practice," the appellee lines are not discriminated against, but are placed upon an equal footing with their competitors, is to overrule this Court's previous decision by implication and deny the appellees a rule of property and leave them remediless in the use of a facility which this Court previously held they were entitled to use upon just and equal terms with all their competitors.

In finally concluding that

> "there was nothing to support a finding that it is or will be unjust or unreasonable for the appellee lines

to bear the cost of transfer of westbound through traffic,"

this Court overlooked the fact that the first condition annexed by this Court in the prosecution by the Government was that all proprietary and nonproprietary lines should be placed

"upon such just and reasonable terms as shall place such applying company upon a plane of equality in respect of benefits and burdens with the present proprietary companies."

224 U. S. 411.

And, after having thus adjudged that all users of the Terminal, proprietary and nonproprietary, must be placed upon a plane of equality, for this Court to conclude in its opinion in this case, wherein the record is undisputed, that the four west-side lines are compelled to bear all the expense of operating the Terminal upon all through east and west bound traffic, that this practice, condemned by this Court, was not both unjust and unreasonable, is, in fact, to overrule the previous wholesome decision of this Court and to leave the appellees without remedy for the illegal discrimination which this Court previously held

would justify the dissolution of the illegal association unless it should be stopped.

Respectfully submitted,

JOSEPH M. BRYSON,
W. F. DICKINSON,
EDWARD J. WHITE,
E. T. MILLER,
C. S. BURG,
WALLACE T. HUGHES,
H. H. LARIMORE,
M. G. ROBERTS,
Counsel for West-Side Lines, Appellees.

May 31, 1928

State of Missouri, } ss.
City of St. Louis. }

M. G. Roberts, one of the attorneys for the appellees in the above-entitled case, certifies that the above and foregoing petition for rehearing and for modification of the opinion is presented in good faith and not for delay.

St. Louis, Missouri, May 31, 1928.

(Signed) M. G. Roberts.

APPENDIX "A."

REPRESENTATIVE CLASS RATES FROM EASTERN POINTS TO ST. LOUIS, MO., AND EAST ST. LOUIS, ILL., AS OF VARIOUS DATES

(Nash Exhibit No. 72).

CLASS RATES FROM EASTERN POINTS TO EAST ST. LOUIS, ILL., AND ST. LOUIS, MO., AS OF VARIOUS DATES.

Rates in Cents per 100 Pounds

Station From	Date	To East St. Louis, Ill. Classes						To. St. Louis, Mo. Classes					
		1	2	3	4	5	6	1	2	3	4	5	6
Cincinnati, Ohio....	Feb. 1, 1906.....	40	34	25	17	15	12	42	36	26	18	15.5	12.5
	Feb. 1, 1908.....	41	34.5	25.5	17.5	15	12	41	34.5	25.5	17.5	15	12
	July 1, 1922.....	85	72.5	57	42.5	30	24	85	72 5	57	42.5	30	24
	Increase 1922 over 1906...	45	38.5	32	25.5	15	12	43	36.5	31	24.5	14.5	11.5
	Per cent of increase.....	112.5%	113.2%	128.0%	150.0%	100.0%	100.0%	102.4%	101.4%	119.2%	136.1%	93.5%	92.0%
Cleveland, Ohio.....	Feb. 1, 1906.....	51.5	44.5	33	23	19.5	15 5	53.5	46.5	34	24	20	16
	July 1, 1908.....	52.5	45.5	33.5	23	19.5	15.5	52.5	45.5	33.5	23	19.5	15.5
	July 1, 1922.....	103.5	88	69.5	52	36	29	103.5	88	69 5	52	36	29
	Increase 1922 over 1906...	52.0	43.5	36.5	29	16 5	13.5	50.0	41.5	35.5	28	16	13
	Per cent of increase.....	101.0%	98.8%	110.6%	126.1%	84.6%	87.1%	93.5%	89.3%	104.4%	116.7%	80.0%	81.3%
Columbus, Ohio.....	Feb. 1, 1906.....	45	39	30	21	18	14	47	41	31	22	18.5	14.5
	Feb. 15, 1908.....	46	39.5	30.5	21.5	18	14	46	39.5	30.5	21.5	18	14
	July 1, 1922.....	94.5	80.5	63.5	47.5	33	26.5	94.5	80.5	63.5	47.5	33	26.5
	Increase 1922 over 1906...	49.5	41.5	33.5	26.5	15	12.5	47.5	39.5	32.5	25.5	14.5	12.0
	Per cent of increase.....	110.0%	106.4%	111.7%	126.2%	83.3%	89.3%	101.1%	96.3%	104.8%	115.9%	78.4%	82.8%
Detroit, Mich.....	Feb. 1, 1906.....	45	39	30	21	18	14	47	41	31	22	19	15
	Aug. 18, 1908.....	46	39.5	30.5	21	18	14	46	39.5	30.5	21	18	14
	July 1, 1922.....	100.5	85.5	67.5	50.5	35	28	100.5	85 5	67.5	50.5	35	28
	Increase 1922 over 1906...	55.5	46.5	37.5	29.5	17	14	53.5	44.5	36.5	28.5	16	13
	Per cent of increase.....	123.3%	119.2%	125.0%	140 5%	94.4%	100.0%	113.8%	108.5%	117.7%	129.5%	84.2%	86.7%
Indianapolis, Ind....	Feb. 1, 1906.....	37	32	23.5	16	13.5	10.5	39	34	24.5	17	14	11
	Feb. 10, 1908.....	38	32.5	24	16.5	13 5	10.5	38	32.5	24	16.5	13.5	10.5
	July 1, 1922.....	77.5	66	52	39	27	21.5	77.5	66	52	39	27	21.5
	Increase 1922 over 1906...	40.5	34	28.5	23	13.5	11 0	38 5	32	27.5	22	13	10.5
	Per cent of increase.....	109.5%	106.3%	121.3%	143.8%	100.0%	104.7%	98.7%	94.1%	112.2%	129.4%	92.9%	95.5%
Louisville, Ky.....	Feb. 1, 1906.....	40	34	25	17	15	12	42	36	26	18	15.5	12.5
	Feb. 1, 1908.....	41	34.5	25.5	17.5	15	12	41	34.5	25.5	17.5	15	12
	July 1, 1922.....	79	67	53	39.5	27.5	22	79	67	53	39.5	27.5	22
	Increase 1922 over 1906...	39	33	28	22.5	12.5	10	37	31	27	21.5	12.0	9.5
	Per cent of increase.....	97.5%	97.1%	112.0%	132.4%	83.3%	83.3%	88.1%	86.1%	103 8%	119.4%	77.4%	76.0%
New York, N. Y....	Feb. 1, 1906.....	87	75	58	41	35	29	89	77	59	42	35.5	29.5
	Jan. 2, 1908.....	88	76	59	41	35	29	88	76	59	41	35	29
	July 1, 1922.....	166	145.5	110.5	77	66	55.5	166	145.5	110.5	77	66	55.5
	Increase 1922 over 1906...	79	70.5	52.5	36	31	26.5	77	68.5	51.5	35	30.5	26.0
	Per cent of increase.....	90.8%	94.0%	90.5%	87.8%	88.6%	91.3%	86.5%	89.0%	87.3%	83.3%	85.9%	88.1%
Pittsburgh, Pa.....	Feb. 1, 1906.....	55.5	48.5	37	26	22.5	18.5	57.5	50.5	38	27	23	19
	June 20, 1908.....	56.5	49	37.5	26	22.5	18.5	56.5	49	37.5	26	22.5	18.5
	July 1, 1922.....	122.5	104	82	61	43	34	122.5	104	82	61	43	34
	Increase 1922 over 1906...	67	55.5	45	35	20.5	15.5	65.0	53.5	44	34	20	15
	Per cent of increase.....	120.7%	114.4%	121.6%	134.6%	91.1%	83.8%	113.0%	105.9%	115.8%	125.9%	87.0%	78.9%

Source of Information: Exhibit 72, in I. C. C. Docket 16,697.

139

SUPREME COURT OF THE UNITED STATES.

No. 404.—October Term, 1927.

The Baltimore & Ohio Railroad Company, et al., Appellants, vs. The United States of America, The Interstate Commerce Commission, The Chicago Rock Island & Pacific Railway Company, et al.	Appeal from the District Court of the United States for the Northern District of Illinois.

[May 21, 1928.]

Mr. Justice Butler delivered the opinion of the Court.

The appellants,[1] for convenience called the east side lines, brought this suit to set aside an order of the Interstate Commerce Commission in respect of charges for transporting certain westbound through traffic from the lines east of the Mississippi at East St. Louis to the lines west of the river at St. Louis. The Commission and the carriers on whose complaint the order was made intervened. The district court, consisting of three judges (U. S. C., Tit. 28, § 47) dismissed the case for want of equity.

The order was made by the Commission after hearing on the complaint of four west side lines. They alleged that the practice of the east side lines requiring them to bear the expenses of transporting

[1]Appellants are: The Baltimore & Ohio Railroad Company; William W. Wheelock and William G. Bierd, Receivers of the Chicago & Alton Railroad Company; Chicago & Eastern Illinois Railway Company; The Cleveland, Cincinnati, Chicago & St. Louis Railway Company; Illinois Traction, Inc.; Illinois Central Railroad Company; Litchfield & Madison Railway Company; Louisville & Nashville Railroad Company; Mobile & Ohio Railroad Company; The New York, Chicago & St. Louis Railroad Company; The Pennsylvania Railroad Company; Southern Railroad Company, and Wabash Railway Company.

Appellees are: The Chicago, Rock Island & Pacific Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri Pacific Railroad Company, and St. Louis-San Francisco Railway Company.

westbound through traffic across the river is unjust, unreasonable and illegal. They made no complaint as to the eastbound traffic, but they sought to be relieved from such charges on all the westbound through business and prayed reparation on account of such costs borne in the two years preceding the complaint. The Commission filed a report which was made a part of the order. 113 I. C. C. 681. It held—its Chairman and two other members dissenting—that the matter in controversy is a "practice" within the meaning of the Act. It found "that for the future the practice of the east side lines in requiring the west side lines to bear the transfer charges on westbound freight traffic moving through St. Louis and East St. Louis on combination rates which are the same on St. Louis as on East St. Louis will be unjust and unreasonable, and that the just and reasonable practice with respect to such traffic will be for the east side lines to bear or absorb all such transfer charges". The Commission was not convinced that the acceptance by the west side lines of divisions of joint rates did not constitute an acquiescence, tantamount to an agreement on their part to pay a transfer charge on through traffic moved on such rates. But it commended to the carriers a careful study of the divisions of joint rates on westbound traffic with a view to readjustment if necessary to conform to the just and reasonable practice in respect of interchange approved by the report. Reparation was denied.

The order[2] requires no change of divisions of revenues derived from traffic moving on joint rates. It covers only such of the west-

[2] "It is ordered, That the above-named defendants, according as they participate in the transportation, be . . . required to cease and desist, on or before October 12, 1926, and thereafter to abstain from the practice of requiring the above-named complainants together with the Chicago, Burlington & Quincy Railroad Company and the Wabash Railway Company, to bear the charges for transfer services from East St. Louis, Ill., to St. Louis, Mo., on westbound freight traffic passing through both points on combination rates which are the same on St. Louis as on East St. Louis.

"It is further ordered, That said defendants, according as they participate in the transportation, be, . . . required to establish, on or before October 12, 1926, upon notice to this commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the interstate commerce act, and thereafter to maintain and apply to the transportation of westbound freight traffic passing through both East St. Louis, Ill., and St. Louis, Mo., on combination rates which are the same on St. Louis as on East St. Louis, and delivered to complainants, or the Chicago, Burlington

bound traffic as moves on combination through rates. It shifts from the west side lines to the carriers east of the river the burden of transferring that freight from east to west across the river. No change is ordered in the method of handling the traffic. No lack of facilities for the through routes, § 1 (3) (4), or for making the transfers, § 3 (3) was shown or found.

The appellants contend that the controversy involved rates and divisions and not a "practice" within the meaning of the Act, and that the evidence before the Commission was not sufficient to support a finding that it is or will be unjust or unreasonable to require the west side lines to bear such transfer charges or to warrant the order.

The traffic at this crossing is very large. The railroad lines of the east side carriers terminate on the east bank, those of the appellee carriers on the west bank, and some carriers have lines on both sides. All, or practically all, of the traffic is handled for interchange between lines east and lines west by the Terminal Railroad Association and its subsidiaries. They are jointly owned or controlled by appellant and appellee lines. The arrangements for their use contemplate equal treatment of all carriers served by them. The proprietary companies have trackage rights over the lines of the Association between St. Louis and East St. Louis, but ordinarily they do not use them. The average haul for transfer across the river is about ten miles. The cost is higher than that attending transportation for like distances under ordinary circumstances.

The transfer charges complained of were assumed by appellee lines in order to enable them to compete with other railroads west of the Mississippi River. At first there was a separate rate or charge for the haul across the river. But in 1877, the Chicago & Alton Railroad Company built a line from the west across the Mississippi at Louisiana, Missouri, to a junction with its north and south line east of the river. That extension enabled it to open a route from the west to East St. Louis and there interchange with

& Quincy Railroad Company or the Wabash Railway Company, the practice of bearing or absorbing on such traffic the charges for transfer services from defendants' lines in East St. Louis, Ill., to the lines of complainants, or of the Chicago, Burlington & Quincy Railroad Company or the Wabash Railway Company in St. Louis, Mo."

the east side lines. This competition for the haul between East St. Louis and the territory west of St. Louis compelled the four appellee lines to bear the cost of transferring across the river all through traffic in both directions. The Commission's report shows that now five of the eight lines on the west side that serve St. Louis also reach East St. Louis, and that three of them handle freight traffic to points west of the river without taking it through St. Louis. This is competition that must be met—if they would participate in the business—by the west side lines that reach East St. Louis only by means of the facilities and services of the Association and its subsidiaries. Since the Alton opened its route to the west, the appellee lines have maintained the same rates from and to East St. Louis as from and to St. Louis. And, about 1908, upon the insistence of the business interests of St. Louis, the lines east of the river published and have since maintained, with some exceptions that need not be specified, the same rates from and to St. Louis as from and to East St. Louis. This was done by reducing the rates to and from St. Louis and by advancing most of the rates to and from East St. Louis. The decrease in revenue resulting from the reductions was much greater than the increase arising from the advances.

In 1905 the United States brought suit against the Terminal Railroad Association, carriers involved in this controversy and others in the district court for the eastern district of Missouri to prevent violations of the Sherman Anti-trust Act. A final decree in favor of the United States was entered in 1917 in accordance with the directions of this Court. 224 U. S. 383, 236 U. S. 194. On petition filed in that case by the appellee lines some years after the final decree, the district court, February 8, 1923, adjudged that in contempt of its decree the Association, its subsidiaries and proprietary companies, had continuously compelled the appellee lines to pay transfer charges for interchange between them and the east side lines on through traffic in both directions. It directed the east side lines to cease such violations and to pay for the use of the west side lines the total amount of the charges paid by the latter for the transfer of westbound through freight from March 2, 1914, to the date of the order. The east side lines and other companies so adjudged in contempt appealed; and, on October 13, 1924, this Court held that the original decree did not regulate rates, prescribe divisions of joint rates or fix liability

for the transfer charges; that contempt proceedings did not lie to determine the controversy between the east side lines and the west side lines or to require the former to make the payments ordered. *Terminal Railroad Ass'n* v. *United States*, 266 U. S. 17, 29, *et seq.*

The Commission's report states that the question before it was "whether the east side lines or the west side lines should bear the expense incident to the transfer across the Mississippi River from East St. Louis, Ill., to St. Louis, Mo., of practically all carload and less-than-carload through freight originating east of the St. Louis-East St. Louis district and destined west thereof". And the thing ordered by the Commission is the absorption by the east side lines of the transfer charges on westbound through traffic. It directed them to do exactly what the district court required them to do except that the latter's decree related to the past and the order of the Commission relates to the future. The matters in controversy in both proceedings were purely financial. There was no question concerning furnishing of facilities or the handling of traffic.

The larger part of the through traffic interchanged through the East St. Louis-St. Louis gateway moves on joint rates; and, for the purpose of divisions among participating carriers, these rates are deemed to "break" at East St. Louis. Each is made up of an amount to cover the part of the haul east of East St. Louis and an amount to cover the movement between that place and points west of St. Louis. The first amount goes to the lines east and the other, less the transfer charge, goes to carriers west of the river. Through traffic not covered by joint rates moves on through rates made up of combinations of local rates or local and proportional rates to and from East St. Louis. Where the combination on St. Louis is the same as on East St. Louis, the lines east of the river, by appropriate tariff provisions, § 6(1), make their St. Louis-East St. Louis rates apply only to and from East St. Louis. There are some exceptions, but they need not be set forth here. So all the revenues yielded by such rates, without deduction on account of charges for transfer, are retained by the carriers in the territory east of the river. But the Commission's order requires the rates, so by tariff provisions limited to East St. Louis, to be extended to St. Louis. This operates to deduct the cost of transfer from their revenue. In effect it is to require the cancelation of such tariff

provisions, and to authorize a corresponding change in the tariffs of the appellee lines. It results that the controversy before the Commission involved divisions or apportionments of revenues derived from through traffic.

In holding that the matter in controversy is a "practice" within the meaning of the Act, the Commission relied on § 1 (6) and (11) and § 15 (1). Paragraph (6) makes it the duty of carriers to establish just and reasonable regulations and practices affecting classifications, rates or tariffs. Paragraph (11) requires them to furnish an adequate car service and to establish just and reasonable rules, regulations and practices, and declares to be unlawful every unjust and unreasonable rule, regulation and practice in respect of car service. The phrase "car service" is defined by paragraph (10) to include the exchange, interchange and return of locomotives, cars and other vehicles and also the supply of trains used by any carrier. Paragraph (1) of § 15 provides that whenever the Commission shall be of opinion that any individual or joint rate or classification, regulation or practice is or will be unjust or unreasonable, the Commission may prescribe just and reasonable rates, classifications, regulations or practices.

The word "practice", considered generally and without regard to context, is not capable of useful construction. If broadly used, it would cover everything carriers are accustomed to do. Its meaning varies so widely and depends so much upon the connection in which it is used that Congress will be deemed to have intended to confine its application to acts or things belonging to the same general class as those meant by the words associated with it. *United States* v. *Pennsylvania Railroad Co.*, 242 U. S. 208, 229. When regard is had to that rule and the restrictions required to give the word a reasonable construction, it seems quite clear that "practice" as used in the provisions relied on by the Commission, does not include or refer to the method or basis used by the connecting carriers for their divisions of rates or revenues. And this is so whether the revenues are derived from joint rates or from combination through rates.

But even if the matter in controversy were a "practice" within the meaning of the Act, the Commission would not be authorized to set it aside without evidence that it is unjust or unreasonable. Paragraph (6) of § 15 empowers the Commission to prescribe divi-

sions of joint rates, but there must be evidence adequate to justify action. *Brimstone Railroad & Canal Co.*, v. *United States*, 275 U. S. —. *United States* v. *Abilene & Southern Ry. Co.*, 265 U. S. 274. *New England Divisions Case*, 261 U. S. 184. That rule may not be avoided by a broad construction of the word "practice". The record here contains all the evidence that was submitted to the Commission. Its report shows that "the propriety of divisions was not the subject of inquiry and investigation". The appellee lines adopted the policy of absorbing the transfer charges in order to meet competition of the Alton and have since continued to divide joint rates and apply their St. Louis-East St. Louis rates in combination on that basis. There is a strong presumption that the general level of their rates has been adjusted to include reasonable compensation for the services covered by them. The Commission found that appellee lines have long acquiesced in the division of revenue derived from traffic moving on joint rates. They have not, by tariff provisions or otherwise, attempted to limit to St. Louis their St. Louis-East St. Louis rates when used in combination to move through traffic. The Alton and other like competitors of appellee lines bear the cost of the transfer across the river. The order makes no change as to them. But it takes the corresponding costs off appellee lines and puts that burden on the east side lines. The latter are required to absorb the transfer cost only when the traffic moves over the appellee lines.

The Commission appears to have relied on evidence tending to show that, usually when interchange is effected by means of an intermediate carrier, the delivering carrier bears the cost of switching. But such a practice does not tend to prove that it is unjust or unreasonable for the appellee lines, in order to meet competition of other west side lines, to bear the cost of transfer in both directions, or that the east side lines may not justly and reasonably limit their rates to East St. Louis when used in combination on through traffic at that gateway and so put appellee lines on equal footing with their competitors. The same considerations apply in determining the reasonableness of the apportionment of revenues derived from combination rates as govern the divisions of joint rates. The merits of the changes made by the order cannot be determined without a consideration of facts substantially similar to those specified in paragraph (6) of § 15 relating to the division of joint rates. The case was not presented by complainants or considered by the Com-

mission on that basis. There was no evidence to show the amount of revenue required to pay operating expenses, taxes and a fair return on the property of appellee lines or that their rates were not adjusted or were not sufficient to cover the transfer charges in question. There was nothing to support a finding that it is or will be unjust or unreasonable for the appellee lines to bear the cost of transfer of the westbound through traffic. The order cannot be sustained. *Florida East Coast Line* v. *United States*, 234 U. S. 167. *Louis. & Nash. R. R.* v. *United States*, 238 U. S. 1.

Decree reversed.

A true copy.

Test:

Clerk, Supreme Court, U. S.